The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

FINANCE COMMITTEE

Wednesday 30 January 2013

Session 4

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FINANCE COMMITTEE
4th Meeting 2013, Session 4

CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

DEPUTY CONVENER

*John Mason (Glasgow Shettleston) (SNP)

COMMITTEE MEMBERS

*Gavin Brown (Lothian) (Con)
*Malcolm Chisholm (Edinburgh Northern and Leith) (Lab)
*Jamie Hepburn (Cumbernauld and Kilsyth) (SNP)
*Michael McMahon (Uddingston and Bellshill) (Lab)
*Jean Urquhart (Highlands and Islands) (Ind)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Michael Cross (Scottish Government)
Gavin Gray (Scottish Government)
Philip Hogg (Homes for Scotland)
Terry Holmes (Scottish Government)
Michael Levack (Scottish Building Federation)
Scott Mackay (Scottish Government)
David Melhuish (Scottish Property Federation)
Tracey Slaven (Scottish Government)
John Swinney (Cabinet Secretary for Finance, Employment and Sustainable Growth)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

Committee Room 3

Scottish Parliament

Finance Committee

Wednesday 30 January 2013

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

Budget (Scotland) (No 2) Bill: Stage 2

The Convener (Kenneth Gibson): Good morning and welcome to the fourth meeting in 2013 of the Scottish Parliament's Finance Committee. I remind all those present to turn off mobile phones, BlackBerrys, tablets and so on.

Agenda item 1 is consideration of the Budget (Scotland) (No 2) Bill at stage 2. Members have a note by the clerk. I welcome the Cabinet Secretary for Finance, Employment and Sustainable Growth, who is accompanied by Andrew Watson, Terry Holmes and Janet Egdell, all from the Scottish Government's finance directorate. I invite the cabinet secretary to make an opening statement.

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): I begin by acknowledging the work of the Finance Committee during this year's budget process. I have given careful consideration to the points and recommendations that are made in the committee's report on the budget and I submitted my formal response to the committee on 21 January.

Today, we are focusing on the content of the Budget (Scotland) (No 2) Bill, as approved in principle by Parliament last week. As members will be aware, there are a number of differences in the presentation of budget information between the draft budget and the budget bill. To assist the committee, I will explain the main differences with reference to table 1.2, on page 3 of the supporting document. Column A sets out by portfolio the 2013-14 budget, as shown in table 2.01 of the draft budget document that was published last September. Column J in table 1.2 sets out the draft budget as it needs to be restated for the budget bill, and columns C to I provide details of the adjustments, including the necessary statutory adjustments to meet the requirements of the parliamentary process.

There are two substantive funding changes to the spending plans that are outlined in the draft budget. First, the budget reflects the impact of my statement to Parliament on 19 December 2012 regarding the deployment of £164.3 million of additional capital departmental expenditure limit in 2013-14. That is recorded at column H. In addition, as I informed Parliament during the stage 1 debate last week, the local government budget has been adjusted to include the transfer of £328 million to the Scottish Government as a result of the arrangements that surround the changes to council tax benefit. The transfer relates to the devolution of responsibility in the area to Scotland and does not increase the discretionary spending power that we have in 2013-14.

I point out that we are addressing some of the impacts of welfare reform in a number of interventions that we are making along with our local government partners, including funding of around £50 million to increase the Scottish welfare fund and to plug the funding gap that the United Kingdom Government has created through its handling of the abolition of council tax benefit.

I come to the other adjustments that are set out. There is the exclusion of £78.6 million of non-departmental public body non-cash costs, which do not require parliamentary approval. Those relate mainly to charges for depreciation and impairments and include bodies in our NDPB community such as the national institutions, Scottish Enterprise and Scottish Natural Heritage. The adjustments also exclude judicial salaries and Scottish Water loan repayments to the national loans fund and the Public Works Loan Board, which again do not require parliamentary approval. There is the inclusion of police loan charges that are to be approved as part of the budget bill.

There are technical accounting adjustments to the budget of £92.2 million, reflecting differences in the way that Her Majesty's Treasury budgets for those items and how we are required to account for them under international financial reporting standards-based accounting rules. IFRS-based accounting was introduced across central Government from 1 April 2009. I remind the committee that the conversion to an IFRS basis is spending-power neutral.

There are adjustments to portfolio budgets to reflect the requirement that a number of direct-funded and external bodies require separate parliamentary approval. Those include the National Records of Scotland, the Forestry Commission, teachers' and national health service pensions, the Food Standards Agency, the Scottish Court Service, the Office of the Scottish Charity Regulator and the Scottish Housing Regulator.

There is a restatement of the specific grants that are included in the overall 2013-14 local authority settlement and which remain under the control of the appropriate cabinet secretary with responsibility for those policies. Those are also excluded. For example, housing and hostel support grants remain the responsibility of the Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities. Full details of all the grants that are treated in this way are included in the summary table on page 74 of the supporting document. I again make clear that these are, in essence, technical adjustments and do not in any way change the budget that has been scrutinised by this and other committees and approved in principle by the Parliament.

We have taken the opportunity that is presented by the bill to reflect a small number of budget transfers, to provide clarity on the starting point for portfolios. The most significant budget transfer is a £14.8 million transfer from the local government portfolio to the rural affairs and the environment portfolio, to support the next generation digital fund.

I remind members that, for the purposes of the budget bill, only spending that scores as capital in the annual accounts of the Scottish Government or direct-funded bodies is shown as capital. That means that capital grants are shown as "operating" in the supporting document. The full picture on capital is shown in table 1.3, on page 4.

As I made clear to Parliament last week, I remain committed to an open and constructive approach to the 2013-14 budget process and continue to seek agreement on a budget that will meet the needs of the people of Scotland in challenging times. I hope that members of the committee found my remarks helpful, and I will be happy to answer questions.

The Convener: Thank you, cabinet secretary. Do members have questions?

Michael McMahon (Uddingston and Bellshill) (Lab): Thank you, cabinet secretary. I seek clarification on the funding for money advice that was announced last week. Is the £5.4 million made up of consequentials from the £65 million that the Cabinet Office made available, which was match funded by the Big Lottery Fund? Is a £1.7 million consequential included in the £5.4 million?

John Swinney: As you are aware, the Government receives consequentials from the UK Government for a range of factors across different areas of spending activity. The UK Government has acknowledged that the Scottish Government is free to allocate consequentials as it chooses to do—that is how Administrations have consistently operated, and the Scottish Government is no different. Over the years, there have been a number of examples of consequentials being provided as a consequence of decisions of the United Kingdom Government; the Scottish Government is free to allocate such moneys as we see fit.

The announcement last week was, in essence, about the allocation of additional resources for advice services in 2013-14 and 2014-15—also in 2012-13. We set out our approach to that in last week's announcement.

Michael McMahon: You have said that it is your practice not to ring fence such funding. Will the money go to local authorities for distribution or will it be centrally disbursed?

John Swinney: The funding distribution arrangements beyond the headline allocation of £1.7 million have not yet been set out. Discussions are going on between the Deputy First Minister and relevant organisations about the most appropriate method of taking that forward, so the precise distribution of the £1.7 million is not confirmed at this stage.

Michael McMahon: Thank you.

Gavin Brown (Lothian) (Con): I have a couple of technical questions. There are three entries in column C of table 1.2. The £328 million for local government is explained on the previous page, as is the £27.8 million for infrastructure, which relates to Scottish Water loans. Can you explain the third entry, which is -£24.1 million? It is in the justice row.

John Swinney: It relates to judicial salaries, which do not require parliamentary approval.

Gavin Brown: The reason I asked—[*Interruption*.]

John Swinney: I am being reminded that the figure also includes police loan charges.

Gavin Brown: Okay. I read the bit on page 2 where it says

"Judicial Salaries of £30.3m appear in the Draft Budget but are excluded from the Budget Bill",

but I could not tie up that £30.3 million with the figure of -£24.1 million in the table.

John Swinney: In essence, the -£24.1 million figure is a net figure, taking account of the gross figure of £30.3 million in relation to judicial salaries, with the netting of the police loan charges, which are in the order of £5.8 million.

Gavin Brown: I move on to my second technical point. In table 1.2 in the supporting document, column J gives the restated budget taking into account adjustments and consequentials from 5 December. In the rest of the document, we have figures for 2012-13 and then figures for 2013-14 for each of the portfolios, and those are then broken down into the parts of each portfolio. Do the 2013-14 figures throughout the rest of the document reflect the Barnett consequentials or are they the initial budget figures, if you like?

John Swinney: On 2013-14? They—

Gavin Brown: If I choose a specific page, that might help. On page 17, which is on the health and wellbeing budget, at the top on the right-hand side under "Total", we have £12,043.1 million. Was that the initial budget or is it the budget now, taking into account the Barnett consequentials, adjustments and additions and so on?

John Swinney: A table such as the one on page 17 essentially reconciles to table 1.2, although in saying that, there will be various factors in there, such as the way in which capital is accounted for and what shows on our balance sheet. However, that takes into account capital consequentials.

Terry Holmes (Scottish Government): Page 16 gives a summary of the health portfolio—

The Convener: Excuse me. Only the cabinet secretary is allowed to speak during stage 2 of the budget bill.

Terry Holmes: Sorry.

John Swinney: Those tables will reconcile with table 1.2.

Gavin Brown: Finally, if we take page 17 again, in comparing the total figure for 2013-14 with 2012-13, is the 2012-13 figure the final figure for that year or the initial budget figure? Does it include consequentials and so on?

John Swinney: That is the original budget approved by Parliament in the budget bill process as at February 2012. There will be subsequent changes to that through the autumn budget revision, which will not be shown in 2012-13, and that is the only other formal parliamentary process that could have been undertaken to change those 2012-13 budget totals. Obviously, there is a spring budget revision yet to come.

The Convener: There appear to be no further questions from committee members, so we turn to the formal proceedings on the bill.

We have no amendments to deal with, but we are obliged to consider each section and schedule of the bill and the long title and to agree to each formally. We will take the sections in order, with schedules being taken immediately after the section that introduces them, and the long title last. Fortunately, standing orders allow me to put a single question where groups of sections or schedules are to be considered consecutively. Unless members disagree, that is what I propose to do. Do members agree?

Members *indicated agreement.*

The Convener: Thank you.

Section 1 agreed to.

Schedule 1 agreed to.

Section 2 agreed to.

Schedule 2 agreed to.

Section 3 agreed to.

Schedule 3 agreed to.

Sections 4 to 11 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank the cabinet secretary and his officials. I will allow a couple of minutes for them to leave and for the new witnesses to be seated.

09:43

Meeting suspended.

09:50

On resuming—

Land and Buildings Transaction Tax (Scotland) Bill: Stage 1

The Convener: Item 2 is to take oral evidence as part of our stage 1 scrutiny of the Land and Buildings Transaction Tax (Scotland) Bill. I welcome to the meeting David Melhuish of the Scottish Property Federation, Michael Levack of the Scottish Building Federation and Mr Philip Hogg of Homes for Scotland. We will move straight to questions, but first I thank you for being here 10 minutes earlier than scheduled. The first item was dealt with much more quickly than had been anticipated, which means that we have even more time to interrogate you.

Before we hear from other members, I will ask a few opening questions. My first is for Philip Hogg. I am quite intrigued by paragraph 8 of your submission, on tax avoidance, in which you say:

"It is important that anti-avoidance rules are in-line with the rest of the UK to ensure rules are consistent and understood. We do not want Scotland to be seen as somewhere more challenging to invest in with a high price to pay for legal/accountancy advice manoeuvring from investment across the border."

All the evidence that we have taken so far suggests that the anti-avoidance rules are full of holes, with the result that the people who are supposed to pay often do not pay. Organisations such as the Law Society of Scotland and others are of the view that we need to have very strong anti-avoidance rules, not to deter investors but to ensure that tax is collected fairly. Could you expand on your thoughts on tax avoidance, Mr Hogg?

Philip Hogg (Homes for Scotland): Just for clarity, I point out that we do not support tax avoidance in any way. If our submission contains the inference that we support tax avoidance in some way, please take my word that that was not the intention.

We need to ensure that any tax system is fair, accurate and proportionate, and that it can be administered in the most effective manner possible, so when a new tax system is set up, we would want to ensure that people understand it, that it is easily collectable and that tax avoidance is minimised. We were not implying that we support or encourage any tax avoidance. I hope that that clarifies our position.

Equally, we are conscious that many of our member organisations operate north and south of the border. They make investment decisions that are based on the attractiveness of doing business in Scotland or England. As a general point, we need to ensure that Scotland remains competitive.

Let us take the example of a large public limited company that has many millions of pounds to invest in land. It will take a decision on where it thinks it will get the best return on its investment. In taking that decision, it will take into consideration the general cost of doing business, the cost of meeting regulations and so on. Our point was that we are keen to ensure that Scotland will not be disadvantaged or seen to be an expensive place to conduct business and that it will, therefore, encourage investment from such companies.

The Convener: Other witnesses can also comment. I asked Mr Hogg that question because of what his organisation's submission says, but other witnesses should feel free to comment. Equally, when I ask other witnesses questions, Mr Hogg should feel free to answer to answer them.

Michael Levack (Scottish Building Federation): It might be an obvious thing to say, but, as someone who has worked closely with HM Revenue and Customs over many years on a host of initiatives to assist the construction and property sectors in navigating their way through the current complex system, I know that its experts acknowledge that the tax arrangements to do with land, property and construction-related activity are among the most complex tax arrangements that we have. If the bill represents a start in giving us an opportunity to have in Scotland a fair and simple system that avoids unintended consequences and which is simple to operate and to understand, that will be most welcome across the property and construction sectors.

I hope that the civil servants who are looking to the implementation stage will come up with some ideas on how we can achieve that, in close consultation with the industry. We should never lose sight of the objective of trying to put in place a far simpler system.

David Melhuish (Scottish Property Federation): There is sometimes the danger of a knee-jerk reaction to concerns about anti-avoidance. For example, the 15 per cent rules coming in under the current stamp duty land tax will affect everybody involved in residential property for the next two years, including in Scotland, when an investment is made in high-value residential property by a non-natural person. Neither the Scottish Property Federation nor the British Property Federation opposes that idea in principle, but, unfortunately, the legislation has accidentally caught genuine property investment businesses. It has taken three or four months of quite hard work to explain that to officials in HMRC, as Michael Levack indicated. Our argument has been accepted by HMRC and changes will be made, but not in time for the legislation coming into force next month.

The concern, therefore, is that measures against tax avoidance inadvertently catch genuine business transactions, which was obviously not the UK Government's intention in the case that I have described. We need to ensure that such a problem does not happen in Scotland with the current bill.

The Convener: Okay. Mr Hogg, you also state in your written submission:

"We would support the reduction of tax chargeable to the lower end of the market from 1% to 0.5%."

You state that that would be to stimulate demand and improve tax revenue. However, has any work been done to show that such a tax reduction would do that? What is the elasticity of demand in that sector? Would such a reduction be enough to stimulate demand such that it mitigated the loss of revenue from the reduction?

Philip Hogg: We must take note of the overall economic circumstances. The total number of housing transactions is dramatically lower; it is probably 40 or 50 per cent lower than at the peak in 2007. However, we have a growing population and a growth in the number of households on housing waiting lists, so there is pent-up demand.

There are probably numerous reasons why transactions are not taking place, but undoubtedly the cost of the transaction and of moving is a big barrier. Stamp duty land tax is one of the barriers that home movers face, which has been exacerbated by the banks' lack of willingness, rightly or wrongly, to provide high loan-to-value mortgages. That means that home movers must provide a higher deposit or a higher degree of equity to move on. Any minimisation of the tax or the cost of moving will stimulate, or certainly facilitate, more people being able to move on, hence our suggestion of minimising the tax and making it easier for those who wish to move to be able to move.

The Convener: But to get the same amount of tax revenue, the number of transactions would have to double. Otherwise, the Scottish Government would lose considerable revenue, which would impact on the services that it provides. What evidence is there that there would be that level of transactions? My understanding is that the banks' unwillingness to lend and the general economic uncertainty have more of an impact than stamp duty at this level.

Philip Hogg: We need to widen the discussion beyond just stamp duty land tax. We know that housing transactions have a significant multiplier effect on the overall economy. The housing market generates economic activity and employment. The discussion must be much wider than just looking at the number of housing transactions. We must think more broadly than that and look at the overall economic impact. The transactions in themselves may not create a neutral net effect, but their multiplier effect provides a much greater benefit to the economy. That is why we are keen for there to be some broader thinking.

The Convener: I do not disagree with that at all, but what I am concerned about is whether the increase in the number of transactions would outweigh the reduction in tax revenue. That is the issue for me.

Mr Melhuish's written submission states:

"LBTT is constrained in its development because of the requirement to 'broadly' achieve revenue neutrality."

However, if there is not going to be revenue neutrality, the implication again is that there should be a reduction in the taxation raised through LBTT. However, that would obviously have an impact on the rest of the Scottish block. The Scottish Parliament's ability to spend in areas would be reduced if its income was reduced by LBTT. Is that not the case?

10:00

David Melhuish: You have identified the constraint that we are talking about and the uncertainty that arises around it at present. As we understand it, that is still being negotiated between the Scottish Government and the United Kingdom Government. The volatility of this tax makes that a difficult target to achieve with any form of certainty. It is only about two years until the tax comes into force, so time is running out.

There is some evidence that, when stamp duty holidays were introduced at the beginning of the 1990s recession, it got economic activity going. Philip Hogg's point that property transactions help the wider economy is also important in that regard. I think that there is some evidence, which officials might be able to pull out, that stamp duty holidays got activity in property transactions to such a level that revenue returned quickly. I believe that the issue that you mentioned is a matter of timing. How quickly will the increase in activity and, hence, the increase in the number of transactions enable the revenue to be regained? You need to consider the time factor.

Michael Levack: We should also consider the volatile nature of returns under the existing tax regime as a result of the current volatility in the property market. There is concern about the overnight reduction to the block grant from the UK Government to the Scottish Government when the new system comes into place. We should consider whether there is a need for some transitional arrangements to ensure that the block grant calculation is done on the most realistic, up-to-date figures.

I want to make another point while we are talking about the implementation date and the market uncertainty. I understand from the consultation that the Scottish Government does not intend to publish detailed proposals on the rates until close to the implementation date of April 2015. That could introduce a bit more uncertainty into the market. It would be helpful if the proposed rates and the detail were made public far in advance of the implementation date.

Equally, the rates can change. It will be open to the Scottish Government at any point to change the rates. If we get a system that is simple, balanced and fair, then at any point those rates could change. However, I appreciate your point that, if we simply reduce the tax in one area, we have to make it up somewhere else. It is a balancing process.

The Convener: Yes, indeed. The Finance Committee often comes across that issue when people want more money to be spent but we do not get information on how savings can be found elsewhere.

One reason for the Scottish Government's proposal is to allow for concerns about volatility, because Scottish Government officials believe that the Office for Budget Responsibility projections for revenue takes in the years ahead are wildly optimistic. That is something that concerns us all.

I have to say that all the written submissions are excellent. Mr Melhuish, will you comment on the section in your submission on simplicity and fairness? You state that simplicity and fairness are

"key tenets of the new tax."

However, you add:

"Unfortunately these two objectives can sometimes contradict and conflict with each other."

There is an explanation in your submission, but will you expand on that point for the record?

David Melhuish: Yes. The feeling is that, although simplicity in the tax will have a benefit in that the tax will be understandable and clear to everybody, it will not always be fair. In efforts to ensure that, for example, reliefs are introduced for positive purposes or to incentivise certain parts of the market, it is inevitable that a certain amount of further complexity will be introduced.

We will probably see that in more detail if we go on to discuss the issue around commercial leases, for which the Scottish Government is keen to introduce a system that is seen as fairer to the taxpayer. There is currently the issue to do with the big up-front payment, for example, and there is an enormous amount of complexity involved in the current incarnation of the tax, in relation to net present value and so forth.

On the other hand, the simplest approach, which is gaining a lot of interest at the moment—an annual tax on the lease, which is paid on the actual rent that is paid for that year, which seems entirely simple and fair—might introduce problems. For example, there might be a problem ensuring that the revenue that the Government was looking for was achieved on a year-by-year basis—at this stage it is unlikely that it would be achieved. Also, we might inadvertently move people out of the tax system whom we want to tax. Equally, we might inadvertently introduce new taxpayers into the system. The very simplicity of the approach introduces wider areas of policy that would be of concern to the Government and would grate against that desire for simplicity.

Michael Levack: The more complex the system is, the more chance there is that larger companies, which have the resources and the wherewithal to pay for experts, will find ways to minimise their obligations; small and medium-sized companies that operate in property markets might not get the same benefit. The more complex a system is, the more chance there is that highly paid advisers will come up with systems to try to flout or bend the rules.

The Convener: Yes. I think that a reason why professionals outside the Scottish Government who work on such matters are so excited about the bill is that the current system does not work effectively and is full of holes, and they think that the bill gives us a chance to address such matters.

Michael Levack: May I make a suggestion about how you might get accurate information about the current tax take and what it might be? Our organisations can perhaps work with officials to think about what-if scenarios, based on fairly accurate data that we can get from our members on real activity, rather than theoretical work in the field—you would probably learn more from the other panel members' organisations.

The Convener: Thank you. Mr Levack, you talked about simplicity but, in its submission, the Scottish Building Federation made the fairly radical suggestion that

"homes with a poorer energy efficiency rating would incur a higher rate of LBTT whereas homes with a high energy efficiency rating would incur partial or total relief from the tax."

That is an interesting and innovative approach. Will you and the other panel members comment on the suggestion?

Michael Levack: I think that all parts of the construction and property industry are looking for a way of stimulating activity. One tax will not present all the opportunities to provide that stimulus, but it struck us that much more needs to be done on energy efficiency. We would never want to get into a position where we were pitting new build against current stock, but we need to do something to encourage and reward people who are spending money to maintain their buildings and bring existing stock up to more modern standards of energy efficiency.

The measure that we suggested might enable us to achieve that, although we would need a big health warning about being careful with listed and historic buildings, for which the cost of achieving energy efficiency will be considerably higher than it is for newer, modern and new-build properties.

You might argue that, although we want simplicity, we have suggested an approach that would inadvertently bring about complexity. However, it is not beyond the wit of man to find an approach that helps to promote better energy efficiency in the built environment.

David Melhuish: That was a good example from Michael Levack of my previous point.

The objective is obviously desirable. We had an attempt at the zero-carbon homes initiative, but I might as well just summarise that by saying that it failed. We are not against it, but we would like to see exactly how the Government wants to attack the issue. At present, the taxes are tied to the value of a property. We have a lot of concerns about the interrelation of value and energy efficiency, particularly for older properties. We have to look at the cumulative impact of Government policy across the piece. If values are reduced because properties must be brought up to a certain standard before they can be sold or leased, we would certainly want to avoid a potential double whammy via the taxation system.

Philip Hogg: This issue is an interesting one that provides the opportunity to push forward on other policy areas. Yesterday, I watched with interest the coverage of the update in Parliament on the carbon emissions targets. The area gives the new homes industry equal measures of concern and opportunity. The Government proposes higher standards for new build, for reasons that we understand. I will not go into the debate on whether those standards are disproportionate, but you will sense from the way that I am speaking that we think that they are.

Although we understand the need to reduce carbon emissions, the biggest emitters of carbon are existing homes, not new ones, so that is where the opportunity, or problem, lies. We might simplistically assume that there could be a linkage between stamp duty and the energy efficiency of a home by rating the stamp duty that is payable on the basis of the home's energy efficiency. On the face of it, that offers interesting thoughts. However, we would not want to encourage or create stagnation in the marketplace by creating reasons for people not to move.

We could consider the opportunities to reduce the tax for highly energy-efficient properties. I urge a word of caution on zero-carbon properties, because that is still to be clarified and it is an area of much debate. However, the tax could be reduced for homes that are almost zero carbon or very low carbon emitters, but that should not be done at the expense of stagnating the entire market. If the Government wishes to achieve a drive towards lower carbon outputs from the whole housing stock, which is what Mr Wheelhouse suggested yesterday, action obviously needs to be taken across the whole housing stock. Putting a tax on transactions and so taxing people only at the point at which they plan to move could have the opposite effect, because people could decide to just stay where they are because it is too expensive to move.

Another route that could be explored—again this is probably outside the remit of the bill, but there is a connection—is through council tax. The energy efficiency of homes could be positively linked to the amount of council tax that is paid. I guess that my point is that we should not look at SDLT as one specific tax to pull one lever. We should consider all the taxes that are possible if we are to achieve the carbon reduction targets to which the Government is committed.

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): I will stick with the same subject, with a question for Mr Levack. In his written submission, he describes his proposed scheme as comparable to the system of getting an MOT for the car. That is an interesting analogy, although, of course, the person who pays for an MOT is the owner or user. I congratulate the Scottish Building Federation on at least making a positive suggestion, but I would like to explore it further. Under the proposal, who would pay for the assessment of whether a property is energy efficient?

Michael Levack: It would be the owner. I appreciate that, when such proposals are made and no such system is currently in place, everybody will say "Oh. Another tax, another burden." However, I think that we must reflect on where we have gone as a society over the past 10, 15 or 20 years, particularly when bank finance was readily available. If we consider the existing housing stock, many of us meet friends, family, colleagues and others who have built up little portfolios of property for themselves. However, what seem to be seriously lacking are people being prepared to maintain their buildings. There are all sorts of ramifications from that, including at the worst end—without wanting to scaremonger—major structural faults that can impact on the safety of tenants, people living in or using the properties, and those passing by.

10:15

Equally, there is a host of opportunities to improve energy efficiency. The Government targets and the Sullivan report have been published in that regard. We have lots of targets and desires and we have made claims about having world-leading climate legislation, but things look different for the construction sector at grass-roots level. Obviously, the various witnesses here will come at the issue from a slightly different angle, given our vested interests.

With regard to trying to stimulate some activity in the repair, maintenance and improvement market, we believe that a reduction in VAT, which the Scottish Government and other parties support, would help even more in encouraging people to undertake the proper level of repair and maintenance of their property. People have to do it with their cars, so why should they not be encouraged somehow to do the same for their home or building? We have an opportunity to use tax relief as a tool to stimulate some work, improve energy efficiency, and look after our existing built environment.

Jamie Hepburn: Sadly, of course, the Scottish Government does not control VAT at this moment in time.

If the aim is to improve energy efficiency, presumably the incentive has to be that it will cost people more through the taxation that will be levied if they do not undertake remedial work to improve the energy efficiency of their home. Is that realistic?

Michael Levack: It depends whether we look at it as paying more or as paying the published rate but getting relief if certain measures are undertaken to improve the energy efficiency of a building.

We will have to do something. Having spoken to many people across the industry, I do not find many builders, plumbers or electricians chasing the long-awaited green deal as an opportunity to stimulate work. I do not hear building owners or home owners talking about the green deal as the fix to improve energy efficiency. We have to find measures to assist and stimulate some activity: just to do nothing is not the answer. Equally, the answer is not to come in with a heavyweight regime that penalises householders at a time when many of them are struggling. There has to be a balance.

Jamie Hepburn: I agree with your perspective entirely, but I wonder whether the tax relief proposal would be an efficient way of doing what you describe. My perspective is that people will not look at it in terms of brass tacks. If undertaking the necessary repairs to their home will cost more than their increased tax liability or what they will pay if they do not qualify for a discount, I wonder whether they will they undertake that work.

I have a question on another issue. Mr Levack and Mr Melhuish have stated orally or in their submissions that the zero-carbon homes relief failed. Mr Levack, why would your suggestion work where that failed?

Michael Levack: We could express similar views on energy performance certificates and the reports that are done when people are preparing to sell a property as we have done on zero-carbon homes relief. Perhaps the suggestion that I have called an MOT is just about moving slightly on from where we are.

For us, it is a case of engaging with the Government and legislators to come up with a system that can stimulate activity. It is never possible to please everyone. No system will be perfectly fair—there will be always be someone who says that the system is not fair. Given that we have a major opportunity, we should do something. It would be wrong not to consider that.

Jamie Hepburn: Thank you very much.

I turn to Mr Hogg. In paragraph 14 of your submission, you say that you favour

“a reduction in SDLT rates to assist the lower end of the market”,

but you suggest that there is also a need for awareness of

“the impact that a higher tax could have on the attractiveness of the higher end of the market to investors.”

You pose the question:

“if the tax acts as a disincentive to high end investors will this push investors into the lower end of the market thereby increasing pressure on affordability?”

Will it do that?

Philip Hogg: What we have to understand is that we need a housing market in which we have equal movement between all steps on the ladder or all stages of the chain—you can use whichever description you want to.

Disproportionately incentivising or penalising people at particular points creates blockages. It is fine in theory to help first-time buyers to get their foot on the ladder—who would not want to do that?—but if that is done at the expense of making it more difficult for those who are taking their second or third steps, the net result is that we will create stagnation. Although first-time buyers might be able to get on the ladder, if the stock is not available, there will not be homes for them to buy. The stock will become available only if people are prepared and able to take second, third and fourth steps on the ladder. Therefore, we need to ensure that all steps that are taken on the ladder are equally or appropriately taxed and incentivised. That is the point that we were making.

If we create blockages at particular points, people will not move or they might consider purchasing property at lower price points to avoid costs. The fundamental point is that it is attractive—and it sounds good—to help first-steppers, but we must ensure that the whole chain is moving because, sadly, we are not building enough homes for there to be surplus stock that first-time buyers or anyone else can just move into.

Jamie Hepburn: You refer to the availability of stock, which involves two issues: the current stock and the new stock that comes on line. Your members are in the business of building houses. We have already heard that the current set-up acts as a disincentive to the building of homes that would be valued around the marginal rate. It is clear that the tax regime can influence the building of homes as well as movement between existing stock. Are you saying that the new tax is not likely to affect the construction of new stock in any great way?

Philip Hogg: Because we do not yet know exactly how the tax system will be structured or what rates will be set, it is almost impossible to answer that question but, from the information that we have and the information that we are aware of, we want to propose a system that does not create blockages and which is fair for all.

To pick up on the point that you raised with Mr Levack, I think that we should be incentivising zero-carbon and low-energy homes through the tax system. That sends a positive signal to the population and is entirely supportive of the Scottish Government's position. The fact that no zero-carbon homes were built under the zero-carbon homes relief gives an indication of how difficult and expensive it is to build such homes, but withdrawing the incentive is not the right thing to do.

I have been contacted by the Scottish Federation of Housing Associations, which was not able to provide a representative today. It has provided me with its submission and said that it is happy for me to present its views. You will see from its submission that it is highly supportive of retaining the zero-carbon relief incentive.

It is important that we send the right signals to the marketplace on the direction of travel, but we must acknowledge that such properties are difficult to build.

Jamie Hepburn: It will obviously depend on the final details, but can this form of taxation influence the new-build market as much as the market for existing homes?

Philip Hogg: It could go both ways; it could incentivise or it could disincentivise.

Jamie Hepburn: But it can influence it—I was not really asking about incentivising. I suppose that you have answered the question.

Philip Hogg: Yes.

Jamie Hepburn: Thank you.

John Mason (Glasgow Shettleston) (SNP): I want to pursue one more point about zero-carbon or low-energy housing—or however we are describing it. The point was made to us in a previous evidence session that the standard can be set at one level with people getting relief or some other incentive, but raising the level, which I hope is what we are trying to do, is quite difficult to build into legislation. Would it not be much simpler just to give people a grant and leave the tax outside the zero-carbon issue?

Philip Hogg: A grant to whom?

John Mason: The builder, the purchaser or somebody who is adapting their house.

Philip Hogg: We have to understand the consumer psychology around low-energy or zero-carbon homes—whichever phrase we care to use. As much as all, or most, people seem to think that ensuring energy efficiency is the right thing to do and that we should be going in that direction, we have to face up to the reality that it is very low down the list of new home buyers' priorities. Most new home buyers do not take a great deal of interest in the energy efficiency of the home. It is taken as a given; they assume that the home is energy efficient.

John Mason: That would suggest that tweaking SDLT—or, rather, land and buildings transaction tax—would have virtually no impact, given that energy efficiency is already low down the priority list and we are talking about varying 5 or 6 per cent.

Philip Hogg: That is where the dilemma lies. Although construction costs will increase progressively to achieve zero-carbon or low-energy homes, the buying public and the lenders do not place any value on energy efficiency. For example, let us take home A, which is built today and is super energy efficient, and home B, which is right next door and is 100 years old. The valuers and the lenders will value them on an equitable basis, using normal comparables such as the size of the home; they will not reflect the energy efficiency of the home.

John Mason: Would it be a big incentive if someone knew that they would pay less for their energy bill?

Philip Hogg: No. The reality is that it makes very little difference to the majority of home buyers. I know that that might sound odd and contradictory, but it is a fact. Our members who have undertaken serious marketing or other activity to try to sell on the basis of energy efficiency tell us that it does not feature particularly highly in new home buyers' considerations. Buyers assume that the home will be energy efficient and that there will be lower bills, but that is not in itself a reason to purchase.

I am not saying that this is true for all buyers, but for the vast majority of buyers there is no evidence to suggest that the fact that a home is super energy efficient makes a significant difference in the buying process. All the other fundamentals have to be in place: the home has to be in the right location and it has to have the right layout. It has to tick many other boxes. The sad fact is that energy efficiency still comes some way down that list.

John Mason: Right. I will move on to another area. The suggestion was made earlier—I think it is in some of the papers—that a simpler system would be popular, but there was also a suggestion that we do not want to move too far away from the UK system in case the developers get confused. How do we balance those suggestions? Are you saying that if the system is much simpler we do not mind if it moves far away from the UK system, or are you saying that you would rather have a bit more complexity if that meant that it was closer to the UK system?

Michael Levack: The view that I have expressed this morning is that we want simplicity, but I am saying that from the point of view of a trade body representing builders—the construction part of the sector—and indeed solely from a Scottish point of view. Without being flippant, I would say that I am not particularly bothered what happens south of Hadrian's wall or whether there is a difference. The point that I made was that, if the system is complex, small and medium-sized operators in this market might not have the wherewithal to employ very expensive consultants to navigate their way through it.

John Mason: Okay, that is helpful. You are quite clear that you want a simple system. Do the other witnesses agree?

10:30

David Melhuish: We fall into the realms of perception here—that is a problem. Major investors on the commercial side of things know that they have had a top rate of stamp duty land tax of 4 per cent, which has been in place for quite a long time, and it is at the same threshold for the various kinds of property that they deal with. If those investors are told that the system is potentially moving to 4.4 per cent but that that is not quite the whole picture because the tax will be levied on a progressive basis, so that they might only pay 4 per cent above £250,000 and 3 per cent above £150,000 or so, they start asking what that means for their values. That takes us into the realms of perception, which would be a slight concern.

We are in no doubt that, residentially, the issue is not just one of simplicity; it is about removing distortions. I think that the move to a progressive tax is the right thing to do on the whole.

John Mason: Another idea that has been mentioned a few times is making the system competitive—we hear phrases such as "incentivising the market". Does that basically mean that you would prefer a lower tax?

David Melhuish: Philip Hogg identified some reasons for that earlier, which very much apply to the commercial world. In a sense, the plc boards have always been a dominant player in Scotland. Those boards make decisions on where to make their investments, and nowadays those decisions can fall on ever smaller margins. I am not saying that the tax rate is the one decision breaker—it is one among a number of factors—but our members want to be as competitive as possible in the UK with regard to the proposed tax.

John Mason: "Competitive" means different things to different people. This might not be the case in property, but in some sectors having an educated workforce is seen as a competitive advantage. We might face a choice of an educated workforce and higher tax or a less educated workforce and low tax. Are you neutral on that? Do you have a preference one way or the other?

David Melhuish: The proposed tax will only ever be one among a range of factors. The employment workforce, the quality of life for that workforce, the attractions that bring people to Scotland, connections, locations and accessibility will all be big issues in the decision whether to locate in Scotland or, say, Newcastle. All we are saying is that, if it comes down to the margin and a small percentage or a few points of a tax can make a significant difference, a higher rate might lead to a decision for an investment to go elsewhere.

We do not disagree that it is only one of a range of factors in making an investment decision but, if decisions are being made on a much tighter basis than they ever were before, it is important that we can at least compete with the rest of the UK on a level playing field.

Philip Hogg: Without wishing to sound flippant, I guess that I am speaking on behalf of home buyers and the general public, and none of us, intuitively, wants to pay any more tax than we need to. It is hard to imagine anybody who would not want to do anything that would reduce our tax. I refer back to—

John Mason: I totally disagree with that. There are a lot of people who want better services and are prepared to pay more tax. Yours is one view, but I do not think that it is necessarily right across the population.

Philip Hogg: If I can finish my point, I was going to say that if people paying less tax in stamp duty, for instance, stimulates much broader activity in the wider economy, which generates tax income or other income for the Government, that needs to be explored. Creating jobs, taking people off welfare and creating economic activity might—I say only might—have a net greater effect, and some exploration could perhaps be done into that.

That is my reason for suggesting that, if the tax were to be removed, it could stimulate the market. I am not saying that it would do so permanently, but in the current times it could stimulate activity that might have a net better effect overall.

John Mason: And might that be linked with higher income tax to compensate?

Philip Hogg: Why?

John Mason: You said that if we boosted the economy we would get more tax. We would need to bring in more tax somehow in order to compensate for the loss of land and buildings transaction tax.

Philip Hogg: If it creates jobs and takes people off benefits, they will be paying income tax, which could have a net positive effect, as well as there being other benefits such as increased take from corporation tax as businesses become more productive.

Michael Levack: With regard to trying to stimulate some activity in the construction sector, it is important that there is a discussion not only of the level of tax but of the timing of how the tax is paid over the lifetime, as it were, of a major commercial transaction. I am not qualified to go into the nitty-gritty of the issue—that might be more David Melhuish's field.

Gavin Brown: Michael Levack touched on the timing of the publication of the rates and the thresholds of LBTT. The Government's current position is that those will be published in September 2014, when the draft budget is published, and will impact from April 2015. Presumably, your members want those rates to be published as soon as is practicable—today or tomorrow, even. Being objective about it, what do you think is a fair and reasonable date for the publication of at least the top rate, if not everything else? Is September 2014 okay? Is it too late?

Michael Levack: Some of our members are developers as well as contractors, but I will speak only from personal experience. I would say that people who take views on larger commercial transactions, which can take years to get the first shovel in the ground, would think that the length of time from September 2014 to April 2015 is not particularly long, particularly if there is a more radical shift in the look of the scheme and the structure of the tax. We would prefer there to be a minimum of 12 months between the publication and the impact, and if we could get towards 18 months, that would be preferable.

Gavin Brown: Do other panellists have fixed views on that?

Philip Hogg: The financial, legal and process time for a typical home purchase—if there is such a thing—is typically three months. That is the usual length of time between someone signing a registration form and them getting the keys to their new home. Of course, you have to add in time for the home-search process that comes before that, when people are looking around to find a property that they want. Therefore, it would not be unrealistic to suggest that a typical timeframe for the process, starting from when someone considers that they want to move and ending when the transaction is completed, is 12 months.

Given that that is the case, I will reinforce Michael Levack's view by saying that a period of 12 to 18 months would be adequate notice for organisations and individuals who want to have some understanding of the likely changes.

Gavin Brown: Does the SPF have a view?

David Melhuish: I would say that deals and transactions that might take place two years away—certain high-value and major development investments—are probably being considered right now. As early as possible an indication of what the top rate will be would be helpful.

I recognise that SDLT rates can change overnight on a budget day, so I add that caveat to our answer.

Gavin Brown: The SPF's paper raises concerns about licence agreements potentially being caught by the tax. Can you expand on that point?

David Melhuish: I believe that HMRC has considered the licence arrangements a number of times and veered away from that. The key problem is the sheer scope of licences that might be caught or not caught, or might be caught unintentionally. A lot of licence agreements can be done for perhaps seasonal reasons, such as kiosks and other facilities for Christmas in shopping centres.

I suppose that the question is whether that is really the kind of activity that we are looking to tax. We should also be concerned about short events such as the Commonwealth games or the gymnastics event that is coming after them. The organisers of such events compete on a worldwide basis, not a UK one. We should be keen to ensure that such activity is not caught. Although those events might be for a short time, a very large price ticket could be associated with them and they could, inadvertently, fall under the licence provisions.

There are other complexities in identifying the kind of licence arrangements that we are trying to include. Those relate to wider scale things such as airports. Are we trying to catch operators, who might have an interest in land for purposes such as servicing or fuelling aircraft? There is huge complexity, which I think is what forced HMRC away from the area. Our concern is that we might open a Pandora's box and that a lot of unintended consequences would flow out of it—I know that that is a horrible phrase. That is why I think that it has not been done previously.

Gavin Brown: That is helpful.

On sub-sale relief, the Government explained last week why it has not just mirrored exactly the provisions from SDLT. Basically, that is to do with tax avoidance, and the Government seems to have a lot of support on that. However, we have received evidence, including from some of our panellists, that a targeted form of sub-sale relief might be a goer and might be better because not all sub-sale relief is about tax avoidance and there are genuine commercial transactions for which sub-sale relief is important. Do any of our panellists want to comment on whether sub-sale relief might be important for some transactions?

David Melhuish: For us, the concern is to do with forward funding, when we try to attract institutions into supporting development. Again, that relates to the well-known comments about the lack of debt finance for property development and investment right now. The institutions are seen as an alternative source of finance, but our concern is that the measures that are proposed in the bill could constrain that activity severely. We will certainly be looking to take up that issue.

Gavin Brown: Homes for Scotland mentioned sub-sale relief in its written submission. Mr Hogg, do you want to expand on that?

Philip Hogg: Yes. Our paper mentioned a lack of clarity on that relief. At the point of writing the paper, I had not seen any of the information that you mentioned. I am not aware of that, so I am not exactly sure where we are on the issue.

The instances of sub-sale relief that I am aware of are when, for instance, someone contracts to purchase a particular property and then, before that contract completes, they want to pass the sale on to someone else because they are unable or unwilling to complete the transaction for whatever reason. It seems odd to have a double taxation hit on something of that nature when, in effect, no goods have changed hands.

Michael Levack: Part-exchange schemes could be caught under that measure. In effect, the property would be taxed twice.

Gavin Brown: Finally, I return to Philip Hogg and Homes for Scotland. Another relief that you touched on in your written submission was registered social landlord relief, which I think you thought ought to be broadened slightly to reflect the current marketplace. Again, will you expand on that?

Philip Hogg: The residential property market is undergoing fairly significant changes in tenure. To put the issue into context, traditionally, the market tended to be polarised between people living in social rented properties and owner-occupiers. Because of the lack of availability of mortgages in recent years and the other issues to do with the property market that we have heard about, we have found that a much more fragmented range of tenures has come on board, including shared ownership, shared equity and mid-market rental. To stay in business, many developers and home builders have had to rejig their business models and provide a much broader range of tenures, so the polarisation has blurred in many respects.

Consideration should be given to how SDLT or other tax applies when people purchase or take on homes on different tenures, given that the situation is less black and white and there are many more shades of grey in that regard. Other forms of tenure will require some examination, to ascertain whether they should be subject to different tax treatment.

10:45

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): The calculation of how much money should be taken from the block grant in 2015 because it is assumed that that is what the existing tax brings in will be crucial.

The Scottish Property Federation talked in detail in its submission about the volatility of SDLT. We know about the big changes since 2007; you also made the interesting comment that the quarter 4 2010 figure for commercial property sales really skewed the estimates that the Government made in its consultation paper. More alarming, you pointed out that it is not at all clear from the data exactly how much is raised by tax on commercial leases. The most striking comparison was between the £65 million that you said that the Scottish Government's earlier consultation suggested would be raised from commercial leases and the

"figure closer to £17 million"

that you said is based on HMRC data. There is a lot of concern in that regard, because if we get that wrong we will not be getting off to a good start.

David Melhuish: The £65 million figure includes cases in which people have bought leases or leases have been assigned, so around £45 million of the figure is, in a sense, a transaction to buy a lease, because someone needs to get out of a lease arrangement at the time. Even then, I think that revenue closer to £25 million was suggested as being attributable to leases at that stage of the consultation. More recent figures have been published, because there have been further extrapolations of the HMRC data, and the figure is now a bit closer to £16 million or £17 million. On actual leases themselves, we are talking about around £16 million or £17 million.

It was slightly odd that on the Scottish Government's website we had to go through the housing directorate to discover the figures that related to commercial leases. The bulk of the £65 million relates to the purchase of leases, which explains some of the difference between the figures.

The larger point that you raised is about the scale of revenue that is attributed to stamp duty land tax, the lack of transactions and the Q4 2010 figure on the value of commercial property sales, which we mentioned in the submission. We have been monitoring Registers of Scotland data on commercial property sales for several years, and the Q4 2010 figure was virtually double the average over the past three or four years, which has been closer to £400 million. In fact, just yesterday we received the figures for the end of last year; the value of commercial property sales has plummeted to £330 million. That tells me that the OBR forecasts are wildly optimistic. It is vital that the Scottish Government digs in its heels and ensures that the Treasury does not look for much more than £200 million to £250 million—I will put it that way.

Malcolm Chisholm: Does anyone else want to comment?

Michael Levack: I do not have the figures to hand, but I remember that when the announcement was made that the power would be moving to the Scottish Government I tried to do some research and get the figures. The figures were not readily available, and the information that I got—I think that it was probably more than a year ago—was not particularly current, because there was quite a time lag. I will dig out the figures when I get back to the office, and if we have comments I will feed them into the committee.

Philip Hogg: I have some data here—I am not sure whether it is the data that Michael Levack meant. That data shows a more than 50 per cent reduction in residential transactions in 2010-11, in comparison with 2007-08. The revenue from residential transactions was £340 million in 2007-08; that dropped to £165 million in 2010-11.

I am not an economist or forecaster, but I think that I am close enough to the numbers to suggest that we see no signs of significant movement in the housing market in the number of transactions or the number of housing starts and completions. We forecast that a significant change is unlikely in the coming years, unless there are dramatic changes that are outside most people's expectations.

For the foreseeable future, we predict that—sadly—the market is likely to be flat. That is in the context of increasing housing need.

Malcolm Chisholm: So, in that sense, it might not be difficult to get the residential part correct. Will you explain the unusually high commercial sales figure in Q4 2010? It seems to be dramatically higher than the figures for the other quarters that the Scottish Property Federation has specified.

David Melhuish: At the end of Q4 2010, we had not re-entered recession. A lot of unusual transactions simply took place at that time. In that quarter alone, the commercial property sales figure—from which the bulk of the revenue would come—was about £832 million. However, in every quarter since then, the sales data from Registers of Scotland has on average been about £400 million. In the last quarter, for which we received the figures just yesterday, sales were £330 million. As an indicator of the revenue that would be obtained, sales figures suggest that, in the years since Q4 2010 and in a number of quarters that ran up to it, the revenue take would have been significantly lower than that in Q4 2010.

Malcolm Chisholm: My next question will be quite general, given that a lot of the detail has been covered. If we assume that the UK Government gets a credible figure that is more or less correct, I assume—from reading between the lines and reading your submissions—that you would really like a reduction in what is collected.

Most of the issues have been covered in detail. Homes for Scotland's submission talks about extra reliefs for registered social landlords and zero-carbon homes—I have sympathy with both those proposals, although they would involve a cost. Homes for Scotland also refers to sub-sale relief. More strikingly, the organisation is worried about the high end being too high and, perhaps most strikingly of all, it wants the low end to go from 1 per cent to 0.5 per cent, which would be bound to reduce the take.

The Scottish Property Federation raises the VAT issue and would like VAT to be taken out when the tax is calculated. The federation also refers to other reliefs, which Gavin Brown mentioned—they had been mentioned anyway—such as disaggregation relief, intercompany group relief and sub-sale relief. The Scottish Building Federation has majored on energy efficiency issues.

Given what you argue implicitly for, my general question is whether you want the overall tax take to be halved, or something like that, to achieve other beneficial objectives. We have talked about environmental objectives—the climate change objectives—but are there more general objectives? Economic objectives have been referred to, such as stimulating the sectors in which you are involved.

Is it fair to say that you argue implicitly for a dramatic reduction in the take from the tax? I do not know whether you can quantify that, but I suggest that you want it to be halved. Do you have a figure for how much you would like the tax to raise in relation to its overall effect on the wider economy?

Michael Levack: I will make what is probably a personal point. We have debated the fact that, although it is okay to reduce income from one tax, that must be balanced by something else going up. We all understand that; that relates to balancing the books, which is certainly not easy at the moment.

Thinking about it from a personal point of view, I suppose that, when buying a house that is going to be my home, I have always scratched my head and thought, “What is this stamp duty actually for?” We could argue that, to varying degrees, with other tax that we pay, we have a closer association with or understanding of what the money will pay for. I know that it is not quite that simple and that we could open up all sorts of debates on the subject, but people broadly understand what their council tax pays for. The same applies to income tax. We could argue about VAT and, perhaps, the duty associated with running a motor car. With the stamp duty when somebody purchases a home, which can be a considerable amount depending on the value of the property, there is not the same connection with what the money will be used for. There is a chance to make Scotland a fairer place and a place in which the people who pay taxes understand what they will be used for, and that would be welcome.

Malcolm Chisholm: Are you arguing that we should not have it at all, then?

Michael Levack: I am not going to be drawn in to comment on such a ridiculous proposal. There are lots of taxes that we would all like not to pay. I think that we have all recognised in giving our evidence that none of the measures will cure everything. They are part of a wider suite of complementary policies that we hope will stimulate activity in the construction and property sectors. What I am saying is that we should perhaps take the chance in Scotland to establish a closer link with what any money that comes in from LBTT—whatever rate it is set at—will be spent on, so that people understand when they buy a home what the money will go towards.

Malcolm Chisholm: So you would like a hypothecated tax for—

Michael Levack: Yes, rather than the money just going into a pot and people not understanding the connection.

Malcolm Chisholm: That is a wider argument, but fair enough.

David Melhuish: I have two points. First, on the VAT issue, commercially, there would presumably be some kind of revenue, but I suppose that our comment is and always has been that we just think that it is wrong that we have a tax that is based on another tax, so there is double taxation. Secondly, on the relief issue, a lot of those reliefs are in play now, so they are already integral to the forecasts that are made and the revenue that is collected. That will perhaps reduce the concerns about giving money away.

Philip Hogg: Speaking from a residential perspective and not a commercial one, I note that we are talking about an item that every one of us needs—a roof over our head. It is not a discretionary item—we have to have it. In looking at how we can best put roofs over people’s heads, we need to think about the broader picture. If we make home ownership more difficult and more expensive, people will be forced to look backwards towards the Government or the state providing housing for them. The need has to be met somewhere, so it makes sense to make home ownership available and accessible for those who can afford it and want it, and to enable resources to be directed towards those who choose not to or are unable to buy a home.

We should ensure that we have a balanced housing market that meets housing need as appropriate. In taxing it or making it unaffordable, we cannot say, “Oh well, it doesn’t matter.” People will still need roofs over their heads and they will look for the Government to provide housing grant to registered social landlords or fund other forms of housing that might be more expensive in the longer term. We need to broaden out the thinking beyond stamp duty and LBTT and think about how we meet housing need and what, ultimately, is the most economical, efficient and effective means of meeting it.

The Convener: On that point, you said earlier in response to John Mason that if we were to reduce the amount of LBTT it will stimulate the economy and there will be fewer people on benefits, but of course this Parliament would take the hit in terms of its revenue; the income tax and VAT that would be generated would go to the UK Government. We would still have a reduction in income, which would mean that we would have to reduce our services, and that is assuming that the balance was equal or even positive. I do not think that any information has been provided to the committee to suggest that a reduction would provide a level of stimulation that would exceed the loss of revenue to the Scottish Parliament.

Philip Hogg: I certainly would not be able to provide such macro-level statistics and analysis, which are outside the remit of our core skills. However, the work that has been produced in the past shows a multiplier effect of about 2.84, which means that every home that is built creates 2.84 jobs. Logically, if we build homes that people need to live in, it creates jobs, takes people out of unemployment and off benefits, and puts roofs over heads. It is therefore a virtuous circle, in that regard.

11:00

The Convener: Everyone would agree with that view, but we are trying to pin down whether reducing LBTT from 1 per cent to 0.5 per cent will have the effect that you described.

Philip Hogg: I cannot provide you with that sensitivity of analysis. We do not have it.

The Convener: We will explore other avenues on that. Thank you.

I apologise for Jamie Hepburn's having to leave the meeting for the time being; he is feeling unwell.

Jean Urquhart (Highlands and Islands) (Ind): In earlier evidence sessions, the potential for the new tax was met with a certain amount of enthusiasm. I feel that it will provide opportunity; I think that there was at least a hint of that, if not the use of the actual word, in all the written submissions. However, what I am hearing today is slight nervousness about a change from the UK system. The attitude seems to be "Don't upset the horses."

I regard LBTT as a real opportunity. The UK stamp duty land tax is not regarded as the perfect tax by any manner of means. We know that it has loopholes in respect of tax avoidance and so on. It is riddled with things that we would all want to change. However, there is a slight hesitancy here today about why we would want to do that. It seems to me that there is a real opportunity to change things for the better. Do you broadly agree? What one thing would you like to see in the bill that would give a great deal of comfort? I am not talking about not going ahead with the new tax or about reducing it. We have to move away from that kind of thinking and accept that there will undoubtedly be a new tax.

I have a supplementary question in response to an earlier statement by Mr Hogg—I think—about energy efficiency really not being an issue for people. That surprised me, given the Scottish Government's incentives for energy efficiency, for which leaflets come through people's doors and there are television advertisements. There is much awareness raising about climate change, but what ultimately makes us switch off a light or not fill the electric kettle is the message about the impact of doing so on the pound in our pocket. White goods are a particularly good example—they have on them a band that shows how energy efficient they are. Given all that, I would challenge your view that people are not energy aware.

Do you think that LBTT is a real opportunity? Can we get excited about it? What would be the one issue that you would like to see dealt with?

Philip Hogg: To answer your first question, we have an opportunity to make the progressive system more fair and to remove the slabs. I think I said in my submission that certain homes are just uneconomical to build; there might be legitimate market need for them, but building them just does not stack up economically. There is therefore an opportunity for the progressive system to remove the logjams and the artificial peaks and troughs. As I said earlier, there is also an opportunity to incentivise low-energy, low-carbon homes and to send the right signals to consumers.

On the second point, I do not wish to sound negative and as if I am from the Flat Earth Society, but I must be realistic. I can tell you about the feedback that I get from our members at the coalface—I have a meeting with many of them this afternoon—who are the sales and marketing people who sit in the sales offices week in, week out and sell homes to people. We challenge them on the new homes advertisements in the newspapers, "Why don't you advertise energy efficiency? Why don't you say that people will save on their fuel bills?" They have said to me on numerous occasions that it is an incentive that is not proven to have wide-ranging appeal.

The majority of home buyers—I enter a caveat by saying "the majority", not "all"—are still looking for the fundamentally important things when they consider a new home: location, price and layout. They want to know whether the home will suit their family or their particular circumstances. If they walk into a new home, they assume that it is a given that it will be energy efficient and that their fuel bills will perhaps be lower than the home from which they are moving. It is just taken for granted. To drive that point even further and say that they might save another £100, £200 or £300 a year—whatever the amount might be—on their fuel bills, is not a significant lever; it will not influence a purchase decision one way or another.

That is the reality. I challenge members to visit some new homes developments over the weekend, if the mood takes you. Go and talk to the sales people who are sitting at the sales desks and ask them how many people come in and talk about energy efficiency. The reality that we face is that energy efficiency is not a strong lever in encouraging people to buy new homes.

If the Government wants to achieve the carbon reduction targets that it has set, it will take more than education and more than just encouraging and persuading people—it will take a financial incentive. That is why we are suggesting that, as regards low-carbon or energy-efficient homes, an incentive in the LBTT system should be explored and could perhaps be progressed further through other methods. As I said, that is the reality: I do not necessarily like putting that point across, but I have to reflect what it is like out there in the real world.

David Melhuish: I will just add to Philip Hogg's point. Time and again our organisations have asked the Royal Institution of Chartered Surveyors—the valuers—why it cannot reflect energy efficiency improvements in the value of properties. Its answer is that it does not make the market, but reflects it. The point is that people are not attaching a significant enough value to energy efficiency improvements for it to make that decision. I do not know whether the committee will speak to RICS, but I encourage you to do so, because I do not think that you can differentiate taxes on interest in property from the value of the property, and RICS has the valuation professionals. That supports Philip Hogg's point—the valuations are perhaps not where we would wish them to be in terms of reflecting energy efficiency improvements.

On the broader point about this being an opportunity, we have broadly welcomed the bill and today, in the cut and thrust of discussion, we are looking at some specifics and opening up some of our wider concerns. For us, both the approach and the general principles that the Government and its officials have adopted to the bill have been very good.

That said, we keep pushing the additional point that we must be competitive. We see this as an opportunity to differentiate ourselves from other parts of the UK, because we are in a hard struggle to attract investment in this particular sector. We see this as an opportunity to develop a simplified bill—a competitive bill. If we can differentiate we should; we have mentioned VAT. We do not have the figures that the convener referred to earlier, but such things can perhaps drive a perception that Scotland is open for business and is looking to attract people.

Michael Levack: We need to do a lot more on energy efficiency in terms of changing people's culture and behaviour, in relation both to new build and to existing stock. I mentioned earlier the total lack of impact so far of the green deal; I do not hold out much hope for it changing things. We have to look at every policy that can contribute in some small way to changing the culture in relation to energy efficiency.

As for whether the bill is an opportunity, we have clearly stated in the conclusion to our written submission that we support the bill's general aims, and that restructuring the tax offers important opportunities to eliminate the market-distorting anomalies on which my colleagues have touched. We generally welcome the bill and see it as an opportunity.

Philip Hogg: Picking up on David Melhuish's reference to RICS, I point out that one of the five themes of the Government's sustainable housing strategy, which was published last year, was financial-market transformation—in other words, getting the financial market to reflect energy efficiency in homes. That is exactly the point that David Melhuish was making. When we ask lenders why they cannot value or lend on properties on the basis of their having higher or lower fuel costs or higher or lower energy efficiency, they always respond that there is no evidence that, just because a home has lower running costs, the cash that would be released would or could be used to fund a mortgage repayment. According to them, they cannot factor in that value. Until we break that logjam of new properties being valued at exactly the same rate as old ones, the cost of building new properties will make their construction unviable. We desperately need that financial market transformation to ensure that a property's running costs are reflected in its value. We are not there yet; I am sad to say that we are long way off. It will take major movement for it to happen but, once it does, it will make the market more reflective, which is why all of our submissions raise the issue.

Jean Urquhart: You mentioned yesterday's statement on the report about climate change targets. Last week, we had a debate on fuel poverty. The realities will have to be dealt with, and the industry needs to contribute more to changing the culture that allows such things to happen. After all, we are talking about the future. Every other European country is concerned about these issues.

However, I hope that you will agree that the bill seems to present a real opportunity to change the UK system. The current taxation system is clearly very poor and is riddled with holes, but if we can renew and revitalise the system in Scotland we might be able to influence things elsewhere.

Philip Hogg: I reiterate that, as we state in our submission, we are broadly supportive of the general direction and theme of the proposed changes.

Michael Levack: In fact, the Scottish Building Federation joined forces with the existing homes alliance Scotland to address the very point that Jean Urquhart has made. Actually, we were a founder member of the alliance along with other organisations that look at, for example, fuel poverty. We might seem like odd bedfellows, but we are examining the existing housing stock and work very closely with Government on the issues. This is not just about grant funding; we need to think about a host of issues, including the public perception that has just been mentioned. That said, we are very clear that we do not want to get into a debate and argument about new build versus existing stock; we need measures on both, but they need to be proportionate and to reflect the current economic climate.

Michael McMahon: For clarification, I note that in the section entitled "Progressive versus slab approach" in his submission, David Melhuish concludes:

> "if the government moves to introduce a progressive approach to residential property transactions then commercial property is likely to follow."

That raises the question whether the bill will introduce a progressive system. After your conversations with Government officials, do you still have a doubt in your mind that the Government wants to move to such a system?

David Melhuish: I am in no doubt that, administratively, the system will be introduced for both residential and commercial property; the statement simply reflects the fact that most commercial transactions hit the high band. I was more putting a question mark over the necessity for such a move in the commercial sector, given that this kind of progressive system deals with the distortive impact on the residential property world.

11:15

Michael McMahon: That is helpful.

John Mason has already asked about the area that I was interested in, but I suppose that it is only common sense for any business looking to invest—or, in the current climate, to consolidate or contract—to look at the tax regimes in different jurisdictions and make a decision on that basis. Have your organisations done work, or can you point to any academic research, on the degree to which those marginal differences have an effect or are a significant factor in such decisions?

David Melhuish: I believe that the Government's initial consultation asked about the tipping point at which such decisions become more affected by tax. It might become a significant factor in and influence very high-value commercial transactions involving major investors; as I said earlier, it will be one of a range of factors that we need to be careful about. What the differential in any rate is or might be could have significant consequences in, say, £50 million-worth of property transactions; all those factors might start to stack up and, because of the tax cost, an investor might wish to look elsewhere. I repeat the caveat that it will be one of a number of items that will be taken into account, but the pressure on us from investors and developers is to seek at least to match the UK rate to ensure that that kind of differential is put out of play.

Philip Hogg: I do not have any specific information, but one general theme has arisen in conversations that we have had. First of all, we need to understand that in the new-build market, which I am speaking on behalf of, the total output of new homes in Scotland is heavily dominated by three or four big plc home builders that are based down south. Typically, those major organisations, which as I have said provide a good chunk of the homes that are provided, will at the start of the business year have a fund of £X million to invest in land and will allocate land or spend depending on where they think they might get the best return for their investment and thus satisfy their shareholders. They will then challenge each of their businesses throughout the UK to put forward projects and demonstrate the return on investment for them in what is effectively a tendering process in which the projects that are thought to give the best return on investment secure the funding.

However, the return on investment is determined by market demand and the cost of supplying the products. The two variables that affect demand positively or negatively are SDLT and construction costs; in other words, any increase in construction costs or the costs of delivering homes will necessarily impact on the return from a development and will therefore impact positively or negatively on the decision to invest in it or in that part of the country. We are managing such sensitive issues and have to assess the impact of any change to legislation—be it to stamp duty land tax, building standards or whatever—on our plc members. After all, the last thing we want is for them to determine that their money would be better invested in other parts of the UK and to withdraw funding and support. That would not only impact on housing output, which is already contributing to the housing crisis, but have knock-on effects such as job losses, loss of subcontract work and so on.

Michael McMahon: That was helpful.

The Convener: I thank colleagues for their questions.

On that last point, can you give us a rough idea of the difference in cost between building a two-bedroom house in Scotland and building one in, for example, London?

Philip Hogg: I cannot quote those figures offhand.

The Convener: What will the margins be given the cost of land, labour and whatever in London? Surely the most significant factors will be demand and the ability of banks to lend to prospective buyers.

Philip Hogg: Costs will be higher, but so will the respective selling prices. The margins are certainly important. In the past two or three years, some national home builders have—rightly or wrongly—withdrawn from activity in Scotland and have decided instead to concentrate their efforts on the south-east, where the market is somewhat more insulated and, indeed, is completely different in that it is directed more towards foreign investors and other forms of available cash.

The Convener: Thank you for that.

Finally, Mr Melhuish talked about very high value commercial transactions and quoted a figure of £50 million. Can you give us a ballpark figure for what you would define as a very high value commercial transaction?

David Melhuish: The number of such transactions has very much fallen, but I think that at the moment a figure of £10 million and upwards would differentiate that kind of transaction significantly from high-value residential transactions, which for taxation purposes would be around £1.5 million to £2 million; I believe, for example, that a £2 million transaction triggers the 7 per cent tax rate. Although there are far fewer commercial transactions, they tend to be of much higher value with regard to investment sales.

The Convener: With regard to the graph in your submission that shows the value of Scottish commercial property sales—which I understand you took from the Registers of Scotland, so you might simply be presenting it as it was presented to you—the quarter-to-quarter presentation of the figures makes it look as if the situation is much more unstable than it turns out to be if you compare the same quarter in different years. Although there has been roughly a 24 per cent reduction in sales over the piece, a comparison between quarter 3 in 2011 and quarter 3 in 2012 shows virtually no difference whatever. Would it not be better to present such figures on an annualised rather than quarterly basis to get a clearer picture of what is actually happening?

David Melhuish: Certainly. I can tell you that the situation has stabilised. Before the crash, there would have been about £6 billion-worth of transactions whereas the figure now is a quarter of that, at about £1.2 billion.

The Convener: It would be interesting to see annualised figures.

David Melhuish: We can send them along.

The Convener: As I have said, I think that they would give the committee a much clearer picture.

I thank the witnesses for their evidence, which will very much help our deliberations. You were scheduled to give evidence for 90 minutes; you have been here for 92, so we have kept within our time. I also thank you for allowing us to start early.

I call a five-minute suspension to give colleagues a natural break.

11:22

Meeting suspended.

11:28

On resuming—

Post-16 Education (Scotland) Bill: Financial Memorandum

The Convener: The final item of business is evidence from the Scottish Government bill team as part of our scrutiny of the financial memorandum to the Post-16 Education (Scotland) Bill. I welcome to the committee Mr Michael Cross, Gavin Gray, Tracey Slaven and Scott Mackay. Good morning, everyone. I understand that one of you has a brief opening statement to make. [*Interruption*.] I do not think that it is to be made by Gavin Brown, who has just come in. It is kind of you to join us, Gavin.

Michael Cross (Scottish Government): It is me who is to make the opening statement, convener.

Thank you very much indeed for your introduction and for inviting us to discuss with the committee the financial memorandum to the Post-16 Education (Scotland) Bill. At the outset, I thought that it might be helpful to set out the context in which the bill sits and to give a brief overview of the three areas in which we expect a financial effect.

The bill is an important part of the Government's reforms to post-16 learning. There are three overarching principles that shape that programme of reform: to secure a system that is better focused on getting learners ready for work and which is therefore aligned with the Government's ambitions for jobs and growth; to improve life chances, particularly for young people; and to create a sustainable system for the long term.

11:30

The Government consulted on its proposals twice: first through "Putting Learners at the Centre: Delivering our Ambitions for Post-16 Education", which set out our ideas for the wider post-16 learning agenda; and subsequently through a specific consultation on college regionalisation, which was undertaken jointly with the Scottish Further and Higher Education Funding Council. The reform programme is also proceeding in the light of the independent reviews of university and college governance that were undertaken, respectively, by Professor Ferdinand von Prondzynski and Professor Russel Griggs. Their work, too, was the subject of consultation with stakeholders. That is the strategic background.

Turning to the bill, college regionalisation forms its most substantial part. It is a central element of our wider college reform programme, which is well under way. Although the bill is not needed to deliver college mergers or the significant efficiency savings that the Scottish funding council expects them to realise, it will establish a new approach to college governance, support the new regional structures and reflect the different approaches that colleges are choosing to take.

As the financial memorandum makes clear, there are costs associated with the new governance arrangements. We estimate that the most significant of those costs relates to the establishment of new regional boards, and we estimate a recurrent cost of some £560,000 for a regional board. It is worth saying that the assumptions that form the basis of that figure were developed with the support of a college assistant principal who is a human resources professional, who is currently on a secondment to my division in the Scottish Government. We shared our assumptions with the college legislative group that was established by what was Scotland's Colleges—it is now Colleges Scotland—so that a group of college professionals could act as a sounding board as we developed the bill.

The aim of the new governance measures is simply to deliver ministers' ambition for greater diversity in college and regional boards. The proposed new arrangements for boards' constitutions and for appointments will improve public accountability by clarifying what is expected of boards and their members, in the context of the existing arrangements for clear accountability for funding and the new regional outcome agreements.

The second area of the bill in which we expect some costs is the new power to ensure that the Scottish funding council can proactively review the structure and provision of fundable further and higher education. The SFC already has a duty to exercise its functions for the purposes of securing coherent provision, but the bill provides a more explicit mechanism for conducting a review of the overall delivery landscape and gives the SFC a clearer remit to use the evidence that it has to ensure that the structures that we fund operate as effectively as possible. We believe that such a power is important in giving the council a clearer mandate to discuss with institutions evidence of, for example, unnecessary duplication that is to the detriment of learners and wider public investment. We sought advice from the SFC on the potential costs of such a review, which we know would not be incurred annually. They would depend on the scope of the review that was undertaken.

The third area in which costs arise is that of data sharing, in relation to which the bill provides for a ministerial power to develop secondary legislation that specifies bodies that would be required to share data with Skills Development Scotland and which sets out the information that needs to be shared. The background is that for some years SDS has operated a client management database system that allows staff to target their activity at young people who are at risk with a view to re-engaging them in education. We estimate that the cost to partner organisations of the proposed provisions will be around £52,000. We base that on SDS's experience with other partners such as local authorities.

We do not expect additional costs to arise from the bill's provisions on higher education governance, those on widening access or those on tuition fees.

I hope that that provides a helpful overview that sets the context for our discussion of the financial aspects of the bill.

As the clerk is aware, a combination of circumstances means that our two colleagues who are working on college governance are unavoidably absent today. We shall do our best to answer the committee's questions on such matters, but we might need to write to you—if that is the case we will do so immediately, of course.

The Convener: Thank you. We have dealt with a number of financial memoranda over the past few months and it seems clear that the Scottish Government never errs on the side of generosity in its financial assessments and that stakeholders never believe that adequate funding is available. We have to ascertain the reality, which might be somewhere in between.

Universities Scotland's view on widening access is completely different from that of the Scottish Government, as you are no doubt aware. Universities Scotland said:

> "the costs of attracting, teaching and retaining 'widening access' students were around 31% higher than for students from more privileged backgrounds."

It went on to say that the additional cost of educating a widening access student is £2,325 per student per annum. Why does the Scottish Government say that there will be no additional cost in relation to widening access?

Michael Cross: I will ask Tracey Slaven, who is head of higher education and learner support, to respond.

Tracey Slaven (Scottish Government): I think that I can answer the convener's question quite directly. Widening access activities, particularly around outreach and retention, are significantly funded, to the tune of about £25 million per annum, by the Scottish funding council. Our progress on widening access has been steady, if unspectacular, and the SFC has had no indication that underfunding is the cause of the slowness of progress. I am a little surprised by Universities Scotland's argument, but we will be more than happy to have a rather belated conversation on the matter if any institution thinks that there has been underfunding.

The report that underpinned the assessment of a 31 per cent additional cost is based on data from 2002 in England. Of course, simply because of its historic nature, that report cannot reflect in any way the substantial funding that has gone into widening access in Scotland, the different distribution of disadvantage in Scotland relative to England or the dramatic changes in recruitment, retention and outreach activity in universities since 2002. Things that were considered as routes only for potential widening access students in 2002 are now mainstream activities for all students. I am therefore rather bemused by the basis on which the evidence was put forward.

The Convener: I understand your point about the time lag and the changes since 2002, but are you arguing—as seems to be the case—that there will be no additional costs whatever? Even if the £2,325 figure is inaccurate—I do not know whether that is the case; we should look into the matter further—there must surely be additional costs in relation to a group of people who are more likely to drop out of university and who need more support for financial and other reasons. If the number of people from that group increases by 20, 30 or 40 per cent, there will surely be an additional cost, because additional services will be provided.

Tracey Slaven: Student support falls very much outwith the provisions in the bill. Substantial changes to the student support package have been introduced for 2013-14. Those changes are specifically designed to help to support widening access and retention by providing a minimum income for low-income students of £7,250 per year and a minimum student loan of £4,500 for all students. That has already been provided, outwith the bill; issues to do with student support were addressed in the spending review.

On the universities' activities, the financial memorandum indicates that the additional costs will be marginal, rather than zero. There might well be changes in individual institutions, and changes will be greater in some places than in others. The sector has been engaged in widening access activities, supported by the Scottish funding council, and as I said there is no indication that the sector thinks that such activities have been underfunded.

In this case, the issue is the move from activity to outcomes for students. We are looking for that translation and commitment in the widening access agreements, remembering, of course, that those agreements are reached by the institution with the funding council. The institutions are not being set targets either in the legislation or directly by the Government.

The Convener: They are not being set targets, but do you have a ball-park figure for how many additional students would gain access through that approach?

Tracey Slaven: We have already provided around 2,000 additional places for students in relation to widening access-type activities and articulation. Therefore, the Government has provided additional places to address issues around headroom. Those were raised as the key issues in addressing widening access by the research-intensive institutions, rather than the funding of widening access, outreach or retention.

The Convener: To switch to colleges, the regionalisation agenda will produce expected savings of approximately £50 million by 2015-16. I am always very suspicious of round figures such as "£100 million", "£50 million" or "£25 million". If you said to me that the figure would be £47,233,411, I might be inclined to think that it had been accurately assessed. How was the figure of £50 million reached?

Michael Cross: The £50 million figure is a matter for the Scottish funding council, which is supporting the merger programme that is currently under way in the college sector. Drawing on its experience of several previous college mergers, the Scottish funding council has estimated a figure of some £50 million, which its chief executive has, I think, made clear is a round figure.

There has been an extensive exchange of correspondence on the matter following Audit Scotland's report last autumn. Both the director general for Mr Russell's portfolio and the chief executive of the funding council have written to the Public Audit Committee to make clear the basis of the Scottish funding council's assumptions. That is, of course, outwith the scope of the bill as it stands, as the bill is not necessary to deliver the mergers, but we would happily copy that correspondence to the committee, if members would find that helpful.

The Convener: Okay. That would be useful, because Colleges Scotland mentions in its submission the

"£25m College Transformation Fund which will assist this process".

It goes on to say,

"however this is unlikely to be enough to meet all the costs of merger",

but it has not provided details of what it expects the costs will be. What level of discussion is there about that issue? Is the gap closing between Colleges Scotland's assessment and yours?

Michael Cross: With the Scottish funding council, we are continuing to talk to colleges about the support for mergers. We do that on the basis of the merger in question. The costs will clearly vary from merger to merger. The Government has made available a £15 million college transformation fund, and the Scottish funding council has access to strategic funds that supplement that transformation fund. I am not sure whether they are of the order of £10 million, but that would take the figure to the £25 million that Colleges Scotland talks about.

I think that there is the prospect of continued support for mergers in order to ensure that they happen on time.

Scott Mackay (Scottish Government): The funding council's letter to the Public Audit Committee refers to providing additional merger funding in subsequent years and to an estimated cost of £54 million in one-off expenditure funded through a combination of SFC strategic funding and the college transformation fund.

The Convener: Okay.

The issue of VAT has been raised. The new regional boards that will be created by the bill cannot be registered for VAT and will therefore be unable to claim recoverable VAT on non-business activities. However, Colleges Scotland has stated that many of the predicted costs in the financial memorandum relating to regionalisation "appear light". It suggested:

"It might be prudent to consult a VAT expert to ensure that costs can be minimised within regional strategic bodies".

Is that happening? Is a VAT expert being consulted?

Scott Mackay: We consulted the VAT expert in the Scottish Government. Our initial assessment of whether the new bodies would wish to register for VAT was based on an analysis that the bodies would be similar to non-departmental public bodies. As such, they would be able to recover only the element of VAT that related to their business activities. As the vast majority of their activity relates to education, which is exempt from VAT, our expectation is that they would be able to reclaim minimal amounts of VAT and therefore may choose not to register for VAT initially. The financial memorandum was prepared on that basis.

The situation would be subject to review if the bodies themselves investigated cost sharing. My understanding is that the bill makes provision to allow that to be explored but does not require it.

11:45

Michael Cross: The bill makes provision for regional bodies to operate "economically, efficiently and effectively". Were those criteria met, the colleges would pursue the approach suggested by Scott Mackay.

Scott Mackay: There is new legislation that specifically looks at cost-sharing groups, which we believe would be applicable in this instance, but further activity would be needed once the bodies were established. My expectation is that there would be a review of the VAT position as cost sharing was explored.

The Convener: I have one last question before I open up the session to colleagues, who are all champing at the bit to come in with questions.

On-going costs of £110,000, including VAT, have been estimated for the regional strategic bodies. Concerns have been expressed to the committee that those costs, which

"are expected to cover new premises, insurances, licences, audit fees, membership fees and staff training, to name but a few items of expenditure",

are a woeful underestimate. What is your view on that?

Michael Cross: We disagree. We have a detailed breakdown of the £110,000, ranging from the computing equipment necessary through consumables and hospitality to travel expenses for board members, recruitment of board members and professional services. We would be happy to share those details with the committee. We do not agree that the forecasts are light.

The Convener: Gavin Brown will be next to ask a question, followed by Michael McMahon.

Gavin Brown: I will start with a simple one. You have given predictions for the cost of data sharing, which you describe as "Marginal". However, in a helpful footnote in the financial memorandum, you say that the cost will be £52,000. Skills Development Scotland says that that is a likely estimate, while Colleges Scotland says that the estimate appears light.

You also say that the money will be spent in 2011-12 and 2012-13. There are only two months left of the financial year 2012-13. Can you tell us today that the £52,000 has proven to be the right amount of money and that the issue is no longer live because all the work has been done?

Gavin Gray (Scottish Government): I am sorry but the main policy lead on that is not here today. From SDS information, we are aware that that is the correct level. I do not know for certain that it has been spent but we can clarify that.

Gavin Brown: I do not want to press the matter if the right person is not here; perhaps we could get a letter on that. When the financial memorandum was produced, there may have been some dubiety. However, given that we are fairly close to the end of the financial year that the money was for, we must now know whether it is enough.

Michael Cross: We are confident that the £52,000 is the best estimate that we can provide you with. Your point on timing is well made. It is unlikely that there will not be some slippage of that cost into 2013-14. However, we will write to you to confirm that point.

Gavin Brown: I want to return to the subject with which the convener started, which is widening access. We have heard what Universities Scotland has had to say on that. It also states that the cost assessment

"has not been the subject of consultation with Universities Scotland or with member institutions."

Is that correct?

Tracey Slaven: There has not been a specific consultation on the preparation of the financial memorandum. However, conversations on the costs of widening access and the provision of support through the funding council for the outreach activities that I described earlier have been on-going for a number of years. As I said, there was no indication of underfunding on those issues.

Gavin Brown: When you had informal discussions, if not formal consultation, with institutions and Universities Scotland on the financial memorandum, did they say something different from what the written evidence that we have received says?

Tracey Slaven: As I said, there has not been a specific conversation on the financial memorandum.

Gavin Brown: Has there been a specific conversation with universities or Universities Scotland on the costs of widening access as a consequence of the bill?

Tracey Slaven: No.

Gavin Brown: That leads me to the obvious question: why has there not been a conversation? In working out the costs, why would you not ask them about that?

Tracey Slaven: That is simply because there has been a long and on-going conversation around widening access. The universities are involved in drawing together plans for outreach activity and they have been involved in the development of the widening access agreements, which are part of their outcome agreements. Cost issues were not raised as part of those processes.

Gavin Brown: Obviously, cost issues have now been raised, on the record, in Universities Scotland's written submission. What will the Government do in response to that?

Tracey Slaven: As I said, I am more than happy to have conversations with Universities Scotland to see whether we have any evidence or indication that is somewhat more recent than the report that was mentioned.

Gavin Brown: The convener mentioned that report and the additional cost per student of about £2,350, which you do not agree with. He fairly pointed out the year in which that report was produced, and I believe that it referred mainly, or possibly exclusively, to the situation south of the border. I am happy to take all that on board, but what is your idea of the additional cost per student for widening access? The report states that it is £2,350 or thereabouts, but you do not agree with that. To disagree, you must have some idea of the cost per student. What is it?

Tracey Slaven: As indicated in the financial memorandum, we believe that, at sector level, the cost is marginal. That is because recruitment and the admissions process are, as universities have said, intrinsic to their core mission. The processes are changing and developing over time. Five or 10 years ago, the idea that a university would have a social media presence to try to recruit students simply would not have been tenable. Those processes are changing the costs. Widening access is part of that mainstream activity. The bill simply requires commitments to demonstrate the impact of those activities.

Gavin Brown: So your view is that you can widen widening access—if I can couch it in those terms—without additional funding?

Tracey Slaven: In relation to the bill, yes. As I said, we made additional places available when it was indicated that headroom provision of places was the key constraint for our research-intensive universities in performing against the widening-access targets. We have provided student support that will remove financial barriers for widening-access students who have the aspiration and ambition to go to university, so we do that transition.

It is worth reflecting that the Universities and Colleges Admissions Service statistics that were released this morning indicate that there has been a substantial transition on widening access, with students from our most disadvantaged areas now 80 per cent more likely to apply to university than in 2004. We have been on a journey and we have already had quite a lot of impact. The changes are starting to become well embedded in the universities' core systems and processes.

Gavin Brown: You referred to a figure of £29 million. Is that an annual figure or does it cover a spending review period?

Tracey Slaven: It is an annual figure.

Gavin Brown: Okay. As it stands, there is an annual sum of £29 million for widening access. How many students are helped by that £29 million?

Tracey Slaven: I would have to refer to the latest report, which I do not have with me, for that information. It is worth knowing that that money goes to fund outreach activities, which obviously impact on a large number of individuals, a number of whom become applicants and then students. I can get a copy of the latest report to you.

Gavin Brown: You do not have it to hand, but if you are prepared to furnish us with it, that would be helpful.

Tracey Slaven: It is a published document from the SFC, so we can get it for you.

Gavin Brown: Thank you.

Michael McMahon: A number of consultations took place prior to the bill being introduced. We asked people to comment on their participation in those. Colleges Scotland states in its response:

> "The Financial Memorandum contains new proposals within the College Regionalisation section for staffing structures/costs of the regional strategic bodies and regional boards as well as proposed remuneration levels for chairs of regional college boards".

It goes on to say that those were not part of the initial consultations. Can we trust the figures that you have come up with, given that they were not consulted on and given that all those other costs have been added without having been reflected in the consultations?

Michael Cross: I hope that you can trust the figures. It is true that the estimates did not appear in the consultations that the Government published, but the structure of the regional board was developed on the basis of those consultations. We discussed with Colleges Scotland—or, rather, with the former Scotland's Colleges—the content of the financial memorandum. Specifically, we discussed it with the college legislative group, to which I referred in my opening statement, which comprised four current principals, one of whom is a regional lead at the moment, and a college chair. The purpose of that engagement was to help shape the content of the bill, which in turn reflected the earlier consultations. Like Tracey Slaven, I am slightly puzzled that Colleges Scotland is saying that it was unaware of the figures. We think that they are at the upper end of the costs likely to be incurred by a regional board, but we did expose those figures to Colleges Scotland as they were developed.

Michael McMahon: There is a supposition in all this that the regional boards are just going to happen and that we will end up at the end of this process with the structures that the Government envisages for them. However, regionalisation is not going well in Lanarkshire. What happens if we do not end up with the regional boards in the way that you envisage and we still have individual colleges that are not within the regional board structures that the bill projects?

Michael Cross: In a region such as Lanarkshire, which would in effect be one region with a number of colleges in it, we would construct a regional board to oversee provision in the region, working with the constituent colleges.

Michael McMahon: Will there be a regional board regardless of whether the colleges come together and form the structures that you hope or intend in the bill?

Michael Cross: Yes, there will be a regional board in each region.

John Mason: I occasionally get a complaint about a college, although not that many. The Scottish Public Services Ombudsman submission states that there has been an 18 per cent increase in complaints and highlights the potential for an increase in complaints if there is a lot of structural change. Is it the feeling that there will be just a marginal cost for the SPSO or is there a wee bit of a risk in there?

Michael Cross: Our view—and I think that of the ombudsman—is that such complaints are likely to remain a marginal cost.

John Mason: If there was quite a lot of movement, with courses being provided on only one campus rather than another, for example, I could foresee that meeting a certain amount of resistance.

Michael Cross: Yes, it might meet resistance. That goes to the heart of what we intend by regionalisation. We do not intend to reduce the offer available to learn—that is not ministers' ambition. However, on the point about the ombudsman, if there was a large increase in complaints that the ombudsman was not funded to accommodate, we would need to take account of that.

John Mason: Would that be kept under review?

Michael Cross: It would have to be.

12:00

John Mason: Although we have been talking about mergers, am I correct that, technically, mergers are not in the bill? Regions are in the bill and whether colleges merge is a separate issue.

Michael Cross: Yes, mergers are a matter for the colleges.

John Mason: People certainly think that the two are interlinked.

An issue that has been raised with me is salary structures, which I think are very different around the country at present. I presume that when colleges merge there will be one salary structure. I accept that that would fall outwith the provisions of the bill.

I am wondering about somewhere such as Glasgow, where there will probably be three colleges in one region. If they all have separate salary structures, will it be the region's responsibility to bring that under control, or will it live with different costs? There would be quite a cost in trying to bring it all together.

Michael Cross: There may be a cost in that, which would be a matter for the region to resolve. If there was a significant additional cost, the region would have to take account of it when deploying the funding it would receive from the Scottish funding council.

John Mason: Would that be included in the change fund or the £54 million that has been mentioned?

Michael Cross: No funding will be provided specifically for the harmonisation of terms and conditions in the way that you suggest.

John Mason: Is that because it is seen as purely a college merger function and not a regional function?

Michael Cross: It is seen that it could be a consequence of college merger.

John Mason: Is it possible that there could be one region with three different salary structures within it?

Michael Cross: Yes, that is possible.

John Mason: Okay. Thank you.

Michael Cross: I should supplement that for the record. This is quite detailed territory, in which I would normally look to my colleagues, who cannot be here to answer today. If I have got that wrong we will certainly correct it, but I think that that is the position.

John Mason: Okay. Thank you.

Jamie Hepburn: I want to clarify a couple of things about college regionalisation. Nine out of the 13 regions that will be established will have single colleges. Is it correct that the four regions that will have multiple colleges are Lanarkshire, Glasgow, Fife and the Highlands?

Michael Cross: No, that is not quite correct.

Jamie Hepburn: Correct me then.

Michael Cross: I will try to do that. The regions that will remain single-college regions are, I think Dumfries and Galloway—

Jamie Hepburn: No, I am asking about the four that will have more than one college.

Michael Cross: The University of the Highlands and Islands will have more than one college. Fife is not expected to have more than one college. Glasgow and, as your colleague suggests, Lanarkshire will.

Jamie Hepburn: I am aware of that one.

Michael Cross: I think that that completes the set. Relatively recently, the two colleges in Aberdeen and Aberdeenshire—Banff and Buchan College and Aberdeen College—agreed to merge.

Jamie Hepburn: So Aberdeen and Aberdeenshire was the other region.

Michael Cross: Yes, it was once.

Jamie Hepburn: So the number is now down to three.

Michael Cross: Yes.

Jamie Hepburn: I am still a wee bit confused. There is a reference to the Highlands and Islands, but UHI is not referred to as a regional board. Why is that?

Michael Cross: The position of UHI is rather distinct from the college sector, so Tracey Slaven will pick up on that.

Tracey Slaven: In essence, the function of the regional board will be conducted by a further education subcommittee of the UHI council.

Jamie Hepburn: So there will be no set-up costs or on-going costs for UHI within the arrangements that you referred to.

Michael Cross: That is a slightly different point. There probably will be set-up costs for UHI. The financial memorandum is not quite accurate on that point. I am conscious that UHI has made a submission in which it identifies start-up costs. We are talking to it—constructively, I might add—about those costs.

Jamie Hepburn: There is also reference to three boards and a £560,000 cost. Are you suggesting that there might be only two boards?

Michael Cross: Yes.

Jamie Hepburn: So might that £560,000 figure come down?

Michael Cross: It might well come down, yes.

Jamie Hepburn: I presume that we would recognise that as good news.

Scott Mackay: The £560,000 would not come down. The aggregate of £1.86 million was based on three regional boards.

Jamie Hepburn: So the figure is £560,000 per board?

Scott Mackay: Yes.

Jamie Hepburn: Okay. That was my misunderstanding. So the aggregate costs will come down a little.

Can you explain how the £560,000 figure was arrived at?

Michael Cross: We spent some time talking to Colleges Scotland about the figures and they were influenced by a human resources professional from the sector—an assistant principal who is on secondment to us. We estimate the staff costs to be about £430,000, which covers 6.5 staff. We envisage the position of chief executive officer or strategic lead within the region, a strategic curriculum lead, an operational finance role, an information and communication technology lead, a regional board secretary who will act part time, and two administrators. That comes to £430,000. There are then the on-costs of about £110,000, which we discussed earlier, and the costs of remunerating the chair. Those are the component parts of the global figure. Again, we will be happy to send you a breakdown.

Jamie Hepburn: That would be helpful.

Where a regional board has been established, it is subject to a degree of oversight by the Commission for Ethical Standards in Public Life and the Scottish Public Services Ombudsman—we have talked a little about complaints. Can I clarify that, where there is no regional board, those bodies will have no role and there will be no cost implication for them?

Michael Cross: Yes, barring the remuneration that we propose for the chair of that board.

Jamie Hepburn: What board?

Michael Cross: The board would be the board of the single college.

Jamie Hepburn: Okay, so that will still be subject to—

Michael Cross: That would become subject to remuneration.

Jamie Hepburn: But there will be no role for the SPSO, because they will be incorporated—

Michael Cross: That matter is still to be determined by the cabinet secretary.

Jamie Hepburn: Okay. What will happen to a regional board if the region ceases to have more than one college—that is, if the colleges merge into one?

Michael Cross: That would merge into one board, which would essentially become the regional board for the region.

Jamie Hepburn: I thought that there would not be a regional board because it was no longer a multi-college region.

Michael Cross: There would be one college and that board would act as—

Jamie Hepburn: Would it, or would it cease to exist?

Michael Cross: No. There would be one college in the region and that college would have one board, and that would be it. There would be nothing sitting above that.

Jamie Hepburn: That is an interesting point, because is that not a disincentive for colleges? I am not saying that there should necessarily be an incentive, but colleges are going to think, "If we merge, we will have no say over who our board will be."

Michael Cross: No. I think that the reality is that they would have a considerable say in the constitution of their board. Part of the act of merging is to discuss what the joint board of the merged colleges will look like.

Jamie Hepburn: I wonder whether we are talking at cross purposes. I am talking about circumstances in which a regional board has been put in place or appointed to deal with a region in which there is more than one college and, at some point down the line, the colleges decide to merge. In other regions where there is only one college, there is no regional board, so my instinct was that after the merger the regional board would serve no purpose and would cease to exist, but you are telling me that, in fact, it will become the de facto board of the merged college.

Michael Cross: No. I am sorry if I gave you that impression.

Jamie Hepburn: That was the impression.

Michael Cross: I am sorry, because that is not the answer. There will be one board that is constructed jointly by the merging colleges.

Jamie Hepburn: My initial perspective was correct, then. The regional board will cease to exist.

Scott Mackay: There will be no public body where there was one.

Jamie Hepburn: Thank you. That is what I was trying to establish. I think that we got there in the end.

Michael Cross: Sorry. I was terribly slow on that.

The Convener: Are you all right, Jamie?

Jamie Hepburn: I am now.

The Convener: Jean?

Jean Urquhart: My question was mostly answered through Jamie Hepburn's questions. Can I be clear about colleges that have merged and how that has come about? Was there a desire for more colleges to merge? Is there an expectation that more colleges will merge in future?

Michael Cross: I think that the cabinet secretary has always made clear the attractions of merger. The letter from Mr Batho at the funding council to Mr Gray at the Public Audit Committee makes quite plain the attractions of merger. In the sense that merged colleges can provide a better service to learners, there was encouragement to merge where that suited the colleges. If the second part of your question was whether further mergers are in prospect, I think that they probably are, for that reason.

Jean Urquhart: Thank you.

The Convener: Do you have any other questions, Jean?

Jean Urquhart: No.

The Convener: We seem to have exhausted the committee's questions. As we have no further items on our agenda, I thank the witnesses and close the meeting.

Meeting closed at 12:10.

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e-format first available
ISBN 978-1-78307-263-7

Revised e-format available
ISBN 978-1-78307-277-4

Printed in Scotland by APS Group Scotland