



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### FINANCE COMMITTEE

Wednesday 8 January 2014

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - [www.scottish.parliament.uk](http://www.scottish.parliament.uk) or by contacting Public Information on 0131 348 5000

---

**Wednesday 8 January 2014**

**CONTENTS**

	<b>Col.</b>
<b>DECISION ON TAKING BUSINESS IN PRIVATE .....</b>	<b>3493</b>
<b>INDEPENDENT FISCAL BODY INQUIRY .....</b>	<b>3494</b>

---

**FINANCE COMMITTEE**

**1<sup>st</sup> Meeting 2014, 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:**

Russell Frith (Audit Scotland)

Caroline Gardner (Auditor General for Scotland)

John Swinney (Cabinet Secretary for Finance, Employment and Sustainable Growth)

Dave Thompson (Skye, Lochaber and Badenoch) (SNP) (Committee Substitute)

**CLERK TO THE COMMITTEE**

James Johnston

**LOCATION**

Committee Room 2



## Scottish Parliament

### Finance Committee

*Wednesday 8 January 2014*

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

### Decision on Taking Business in Private

**The Convener (Kenneth Gibson):** Good morning and welcome to the first meeting in 2014 of the Finance Committee of the Scottish Parliament. I wish everyone a happy new year. I remind everyone present to turn off mobile phones, tablets and other electronic devices, please.

We have received apologies from Jamie Hepburn, who is unwell. He has been replaced by Dave Thompson, whom I welcome back to the committee.

The first item on our agenda is to decide whether to consider in private at future meetings the draft report on our inquiry into proposals for an independent fiscal body. Do members agree to do so?

**Members** *indicated agreement.*

## Independent Fiscal Body Inquiry

09:30

**The Convener:** Our second item of business is to take oral evidence for our inquiry into proposals for an independent fiscal body. First, we will take evidence from the Auditor General for Scotland, Caroline Gardner, and from Russell Frith, who is assistant auditor general. I warmly welcome both of you to the meeting.

I believe that our witnesses do not wish make an opening statement, so we will go straight to questions from the committee. Obviously, our witnesses are veterans of the committee and know the routine. I will ask a few opening questions, then colleagues around the table will ask questions.

Audit Scotland's submission is excellent: it is very clear, concise and straightforward. Paragraph 4 states:

"it will be important to ensure that the proposed body has a critical mass of work to enable it to attract suitably talented and experienced people. This may influence the structure for the new body, for example using part time experts from a wide range of backgrounds rather than only a small full time expert cadre in order to achieve the range of skills required at a proportionate cost."

What would Audit Scotland prefer—a full-time expert group or

"part time experts from a wide range of backgrounds"?

What would be more appropriate? Can you also tell us what you think "a proportionate cost" might be?

**Caroline Gardner (Auditor General for Scotland):** We will do our best, convener.

Obviously, the appropriate size of the body would depend on the role and remit that are agreed for it. I know that evidence that the committee has heard from other witnesses over the past few weeks has focused on potential roles for the body—whether it would be responsible for producing the Government's forecasts on which its budgeting and tax proposals would be based, or for commenting on forecasts that the Government makes. Both would require different skills and different scales of resources in terms of the number of people and the extent to which they would be needed full time. There could be a council of advisers who had other roles.

Obviously, there are challenges for us in Scotland in a number of ways, as we are setting up new bodies to reflect our growing fiscal autonomy under the Scotland Act 2012, and—whatever happens next September and thereafter—in ensuring that we have the capacity to do all the new things that will be needed at

proportionate cost. That should happen in any case, but it should happen especially at this time with the economic challenges that we all face.

The reason why we made that point was to encourage the committee and, indeed, the Government to think clearly about the purpose of the body and to ensure that it is put together in a way such that the range of skills that are required can be brought together at a senior and credible enough level to fulfil the body's full remit, and to build the authority and credibility that are key to its purpose in a way that fits with the other new institutions that will be required as Scotland heads into the new era.

**The Convener:** Obviously, we will try to pin down the cabinet secretary on some of those points, but you have managed to dodge the question a wee bit by not saying what side you would come down on. Obviously, we do not at this point know exactly what the body's full remit will be, but what do you instinctively feel would be the most appropriate approach? Should there be a small group or a wide range of people?

**Caroline Gardner:** If the body is to produce forecasts, it will need a core of full-time permanent analytical staff from a range of economic and other financial backgrounds in order to be able to do that. Its being able to do that in a way that would keep those people gainfully employed across the year would probably mean that they would need to look at a range of issues that is wider than simply the annual forecasts that go into the budget-setting process.

If, on the other hand, the staff were commenting on the Government's fiscal strategy and its own proposals, the body could be much smaller and could comprise people who work part time and who combine that work with other roles.

**The Convener:** Do you have a ballpark figure for the costs? We have been given evidence on the costs in other jurisdictions. Have you given any thought to maximum or minimum costs?

**Caroline Gardner:** It is too early to be specific about the costs. The evidence that you have seen gives you a range of options, some of which are for countries that are similar in size to Scotland. It can be done; we are just highlighting the importance of getting the balance right.

**The Convener:** In paragraph 7, you say that

"the chair and two of the other four members of the UK Office of Budget Responsibility (OBR) are appointed by the Chancellor of the Exchequer with the consent of the Treasury Committee of the House of Commons."

Are you suggesting that the Scottish Government should appoint with the consent of the Finance Committee?

**Caroline Gardner:** I am not necessarily suggesting that. That comment was made in an answer in which we said that the Government might, depending on the remit of the independent fiscal body, have a stake in appointment of those senior people. The starting point is that, if it is to be an independent body, it must have very clear accountability to Parliament. In order to achieve in the first place the benefit of separating the function from what is being done in Government, the body must have that line of accountability to Parliament.

If, as in the case of the Office for Budget Responsibility, one of the core roles of the body would be to prepare the forecast, it would also be entirely appropriate for it to have a close line of accountability to Government. It is hard to see how the Government could have confidence in forecasts without that close relationship and confidence in the new body among the senior finance people in the Government.

On the other hand, if the body were doing something much more separate, such as commenting on the Government's forecasts, the line of accountability to Government would be less important. Nevertheless, that there should be a line of accountability to Parliament is unquestionable in delivering the independence that would be the main requirement in creating such a body.

**The Convener:** Thank you. In paragraph 12, you state:

"Possible additional objectives could include providing economic reports for Scotland where existing UK information is not disaggregated or where there is good reason, in the view of the IFB, to use different assumptions."

Can you provide an example or two?

**Caroline Gardner:** I will give a couple of broad examples and will ask Russell Frith to comment in a moment. The first is what we already see in relation to the new Scottish taxes, especially the landfill tax and the land and buildings transaction tax, which are significant in the context of the Scottish Government's budget but very small in the context of the United Kingdom budget. Given the OBR's current remit, it is entirely understandable that it would not expect to put the same effort into developing more sensitive fine-grained forecasts of things that are so small to it in that context, although they are significant for Scotland.

The other area in which I think there might be real value in that being done is where the Scottish Government is looking to explore different taxation strategies as its financial powers devolve, and where there is a genuine difference of view—which we have already seen, to an extent—about the different weighting of factors that would affect

forecasts in the future. It is entirely appropriate that the Scottish Government and the Scottish Parliament have an interest in the body that is setting up the forecasts as is proposed.

Russell Frith may want to add to that.

**Russell Frith (Audit Scotland):** The Auditor General is absolutely right to say that there are areas in which a body such as an IFB, if it was preparing economic forecasts, could help to fill in gaps where disaggregated information for Scotland is not currently available. Some of that information would be in benefits areas and in all taxation areas where the impacts of taxes in Scotland may be proportionately very different from how they appear to affect the UK as a whole. In economic forecasting, it would be essential for the body to have access to information that is not currently available freely in Scotland, particularly in respect of benefits.

**The Convener:** I have a final question to ask before I open the session to colleagues around the table. You say that

“the body should have a commitment to quality including external evaluation of its work.”

Who do you believe is best suited to that role? would it be Audit Scotland?

**Caroline Gardner:** I do not think that Audit Scotland would be best suited to the role, although that is a good question, which is relevant to us, as an audit body. I will use Audit Scotland as a parallel, if I may, and then come back to the new forecasting body. For public audit, there is a suite of international auditing standards to which we adhere, and we have a range of peer reviews in place. They are not just to help us to learn where we can improve but to provide external assurance—to Parliament and other stakeholders—that that is what we are doing. We appoint the Institute of Chartered Accountants of Scotland to review our in-house audit practice, we rely on the Financial Reporting Council’s quality review team for the firms who do about a third of our work, and we engage in peer reviews with the National Audit Office, the Wales Audit Office and the Northern Ireland Audit Office for our performance audit work, because those are the peer organisations that can take the informed view on whether we are complying with standards and which can identify areas where we might want to improve.

For the independent fiscal body, we certainly would not be in a position to do that. We are not economists and we are not forecasters. However, there is a strong and growing tradition among budget bodies globally, about which we heard when the Organisation for Economic Co-operation and Development gave evidence to you in 2013, and in that context peer reviews can provide the

same sort of challenge and assurance to the people who rely on the forecasts that the forecasts are being prepared in line with the right professional standards and are continuing to improve.

**The Convener:** Thank you. I open out the session to members, starting with the deputy convener.

**John Mason (Glasgow Shettleston) (SNP):** You used the term “critical mass of work” a couple of times in your submission. Will we have problems attracting the right people to the body, because the body will be perceived as being quite small in comparison with the Office for Budget Responsibility?

**Caroline Gardner:** I would not say that the body’s size would necessarily make that the case. We all think that this is an exciting time in Scotland; it is always exciting to be involved in setting up a new function. I would have thought that doing something new that will contribute to the financial sustainability of the Government’s new fiscal powers is a professional challenge for any economist.

However, as we know from setting up Audit Scotland, there are challenges to do with putting in place a body that is proportionate in terms of cost but which can attract people in the right numbers and of the right seniority to do work of the quality and calibre that are required. There are challenges to do with putting in place career paths and thinking about where people might move on to, in a Scottish context.

None of those challenges is insurmountable, but now is the time to be thinking about them, particularly given the importance of the body’s independence from Government. There might be a role for secondments from the civil service to the new body, but to rely on that and nothing else would limit some of the benefits of independence from Government, which is the purpose of putting the body in place.

**John Mason:** It has been suggested that if we are initially looking only at land and buildings transaction tax and landfill tax we might not need a completely separate body; the new body could be attached to another. Another suggestion is that we start with a small body that would grow over time if we become responsible for more taxes.

**Caroline Gardner:** It is a judgment call. It is clear that for the two taxes that you mentioned and, increasingly, the Scottish rate of income tax as it comes on stream, we in Scotland will need a forecasting function that we have not needed before. The more fiscal autonomy there is, the more important forecasting becomes and—to a great extent—the more important will be the

reassurance that will come from the independence of the body.

On balance, our view is that it makes sense to start now with something that could be built on in the event of more fiscal devolution and autonomy, if that is what happens in the future, while ensuring that the core is proportionate and provides a good basis for growth.

**John Mason:** In the context of what happens in other countries, it was suggested to us that there are not many experts out there who could be on the board, and if we change them too often there is a danger of running out of experts. I suppose that the danger of having people on the board for too long is that relationships become too close and too familiar. Do you have thoughts on that?

**Caroline Gardner:** In the context of the independence criterion, which we stressed heavily in our submission, it is important that people move on after a time. If I may use Audit Scotland as a parallel again, my term of office is eight years, after which I cannot be reappointed. The aim is to ensure that whoever fulfils the role of Auditor General for Scotland comes to the job fresh and has long enough to do it well but does not become so embedded in the system that they lose that bit of distance and cease to be the grist to the mill that is part of the purpose of the post.

As I have said, it is a judgment call, but I think that what is needed is an approach that gives people long enough to get their feet under the table and to understand the complexities of a very complex area, but which also ensures that there is regular turnover, whether that is of senior members of staff or of council members, if that is the model that is put in place. That is important for independence purposes.

I think that Russell Frith wants to add to that.

09:45

**Russell Frith:** One way in which we could mitigate the consequences of people being too familiar, or of rapid turnover, is to ensure that there is reasonably frequent partial turnover of membership of the body so that the whole membership is not turned over at any one time.

**John Mason:** That is fair. Paragraph 7 of your submission states:

"the chair and two of the other four members of the ... Office of Budget Responsibility ... are appointed by the Chancellor ... with the consent of the Treasury Committee".

That is three out of five. The other model that has been suggested to us is that the minimum number of people should be appointed by the Government or Parliament and the chair should have autonomy to recruit the people whom they want to bring on board. On the surface, that would maybe give

them a bit more independence. Do you have any thoughts on that?

**Caroline Gardner:** That principle is absolutely right in terms of carrying out the work. My understanding is that, in the OBR, the budgetary responsibility committee members are the three who were appointed with the focus of doing the forecasting work. The other two members of the OBR are appointed to the oversight committee, in effect, which is part of the governance arrangements and ensures that resources are used properly and that the arrangements for ensuring quality in the work are up to scratch.

There is a parallel in our board in Audit Scotland in that I am appointed by the Queen on the recommendation of Parliament. The chair of the Accounts Commission is appointed by Scottish ministers, but the Parliament's Scottish Commission for Public Audit appoints the other three non-executive members of our board. They have no involvement in our audit work but are there to ensure that we live up to the standards that we expect of others in both our use of resources and the quality arrangements that we have in place.

John Mason is right that there is real merit in the smallest number of people being appointed by either the Parliament or the Government and their being accountable to Parliament for that work, and in giving them the freedom to appoint their own staffing or other resources to carry out the work in line with their professional judgment, but with their being accountable for that in a proper way through oversight that provides confidence that public money is being used well.

**John Mason:** Thank you. My final question is on the availability of data at Scotland level. Is the fundamental problem that the data are just not available at that level because they are all in one pool, or that they are available somewhere but people such as you or the new group will have difficulty in finding it?

**Caroline Gardner:** It is a bit of a mix. Probably, some of the data are in different datasets that have not been used for these purposes before. You heard a flavour of that from David Bell before Christmas when he mentioned new models that are being developed that use data from different sources to answer new questions that have not really mattered in the past but which matter now that we have the new fiscal powers.

Other data are just not available. Probably the best example of that is identification of Scottish taxpayers, which simply has not been required by anybody in the past. HM Revenue & Customs is now starting to label us all with the "S" that will show that we are Scottish taxpayers, but that information has not existed previously.



One of the main functions of the new body, however it is set up, will be to think about what questions it will need to answer and what data it will need to do that, and either to identify where it can be drawn from or to start the processes of developing it and capturing it for the future. That is another reason for starting with something that can be built on as fiscal autonomy grows.

**John Mason:** That suggests that it could take some time to get the whole thing up and running properly.

**Caroline Gardner:** It almost certainly will, not only because of the availability of data but because of the quality and complexity of the models that will need to be developed and the expertise that will be required on the part of the people who will do the work. Those are all things that cannot happen overnight.

**John Mason:** Thank you.

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** You said that you are not economists or forecasters, but obviously you have a strong focus on public finance. What relationship do you foresee between the new body and Audit Scotland?

**Caroline Gardner:** I think that we will have different roles with an element of interaction between us. Our focus is clearly on decisions that have already been taken about public money. We are keen to ensure that not only is the Government accounting properly for money that has been spent in the past but it and all public bodies are exercising good strategic financial management in making decisions about the future. Primarily, our focus is on whether decisions have been taken properly and are being implemented in ways that offer value for money and protect public money. The independent forecasting body, on the other hand, will be responsible for looking ahead to inform decisions that will be taken in future. There is a shared interest in financial sustainability with regard to decisions that have already been taken, and I expect that we will stay in close touch with any new body that is set up, but I think that our roles will be quite distinct.

**Malcolm Chisholm:** You are very interested in assets and liabilities, for example, so I presume that there would be a bit of overlap.

**Caroline Gardner:** I think that there would be but, again, the way in which that interest would be expressed would be different. Before Christmas, we briefed the committee on a report that we produced on developing financial reporting in the new context, in which we identified the importance of having a comprehensive picture of Scotland's public finances, including things such as assets and liabilities and future commitments for revenue financing of capital investment. Having that

information available would be an important starting point for the new forecasting body to build on, but we would not be falling over each other to ensure that the data was there. We would have clear and separate roles in that regard.

**Malcolm Chisholm:** As far as I know, Audit Scotland has a very good reputation for independence. Are there lessons to be learned from that for the independence of the new body? You described the appointment process, although you are not necessarily saying that it ought to be the same for the new body. Can any general lessons on how to ensure independence be learned from your experience?

**Caroline Gardner:** Yes—there are two that I would like to pull out. First, there are a number of mechanisms in the OECD principles that are intended to protect that independence. Those formal things are all very important and are worth getting right in the early stages of the new body, as has been reinforced by all the evidence that the committee has heard. A number of witnesses also said that the authority and credibility of the new body were just as important, and I concur with that. The way in which any new body conducts itself, the perception of independence and the ways in which it is operated in practice help to build a sense that the body is one that has a voice that is worth listening to, rather than just one that is protected in statute.

Secondly, the time to get those arrangements right and in place is early on, and they need to be flexible so that it is possible to respond to situations that we may not yet foresee. The committee has heard about a number of cases in which a body's independence has been challenged for highly understandable reasons. We know that politics is a rough game, and politicians on all sides of a debate will look to use things that the new body says for their own purposes and to challenge things that do not agree with their objectives. Therefore, we must ensure that the body has in place the right protections for its independence that will withstand such challenge, regardless of the future political context, whether that is minority, coalition or majority government or more fragmentation. It is important to think that through at this stage.

**Malcolm Chisholm:** You have helpfully described some possible options for the role and remit of the new body, and there is no reason why you should come down on a particular side.

A helpful distinction that you made, as far as I remember, is that if the new body were to produce forecasts, a large group of people would be involved in doing that, but they might have to find other things to do for the rest of the year, whereas if it had a commenting role, a smaller group of people would be involved. I suppose that I am

coming to the view that the new body's core task would need to be the production of forecasts.

If we assume that that will be the model, what other activities do you think the body could undertake? Perhaps I am asking you to express a view that you do not want to express, but what potential add-ons could there be to that core role? An interesting one that you mention in your submission is "costing major legislative proposals", which seems an extremely worthwhile thing for it to do. The committee spends a lot of its time looking at financial memorandums. That is probably one of the areas in which, across the parties, we have the most criticism to make of the Scottish Government in the broad sense, so that seems a good suggestion. What other activities do you think that it would be most appropriate for the body to be involved in, over and above its forecasting role?

**Caroline Gardner:** I need to start off by saying that I think that that is genuinely a policy question and therefore one that is for the Government and the Parliament rather than for us.

There is an inherent tension, which cannot be avoided, between a narrow remit, which helps to keep the forecasting body out of the political arena and therefore helps to protect its independence and the perception of its independence, and a wider remit, which might well tap into its expertise and perspective but means that it is inevitably caught up in more of the political day-to-day knockabout that goes on.

You are right that costing policy proposals would fit well with the skill set of a new body and could help to smooth the workload of a body that needs the resources to do forecasting each year. However, that would inevitably increase the body's involvement in the political debate that was going on. That trade-off must be a policy choice.

**Malcolm Chisholm:** That is a helpful way of putting the matter. You are saying that, the wider the body's role is, the more controversial it gets. In your experience, have aspects of your activity led you into more dangerous waters in relation to neutrality and so on?

**Caroline Gardner:** That is a good question. The legislation that established the role of the Auditor General for Scotland clearly prohibits me from commenting on the merits of policy. That is a good thing. Having said that, I do not think that a clear line can ever be drawn between commenting on the merits of policy and commenting on the implementation of policy.

In the 18 months for which I have been in office, we have commented on a number of significant Government policies in which some things have gone very well and some things that have had room for improvement. There has been a lot of

political interest in the commendation and the criticism that we have given. I argue strongly that we have not commented on the merits of policy, but such a line does not keep people out of politics, even if they stick strictly to that rule.

**Malcolm Chisholm:** That was helpful.

**Michael McMahon (Uddingston and Bellshill) (Lab):** My question is not unrelated to the issues that Malcolm Chisholm pursued. In other evidence that we have taken, we have heard about the body not just being a predictor or analyst but suggesting policies. Some independent financial bodies in other jurisdictions suggest to the Government policies to pursue. Are you concerned about that in the context of what is being proposed for Scotland?

**Caroline Gardner:** I come back to the tension—on which a key judgment needs to be made—between a body that is narrowly focused on financial sustainability and commenting on Government policy, which helps to keep it out of politics but limits the value from the investment that is made, and a body that moves along the spectrum of making proposals rather than just commenting. There is no question but that there is a trade-off.

I sense that the bodies that have made alternative proposals in a way that has not compromised their independence or the perception of it are in countries where they have been established for longer and which perhaps have a different political culture—the committee had a flavour of that from the Swedish Fiscal Policy Council before Christmas. My personal sense is that a slightly narrower remit, at least to start with, would make a better contribution to the decisions that will need to be made for the Scotland Act 2012 implementation and whatever happens thereafter.

It is clear that there are benefits in being able to tap into such expertise to think about wider questions such as the merits of policy, alternative proposals and manifesto commitments. That has been suggested as a role for the OBR in the UK.

**Michael McMahon:** You do not suggest such a role at the outset.

**Caroline Gardner:** That is a policy call. I do not want to go much further than that, but there are probably some advantages to the body having a narrower remit, at least in the early stages.

**Jean Urquhart (Highlands and Islands) (Ind):** I want to ask for your opinion on the national performance framework. Scotland is the only country to have such a framework among the jurisdictions that have commented, but it has not really been taken into consideration, although it has a role.

We have heard positive evidence that the NPF is a good thing. We want to know how to spread the word about that. Would any advisory body's observations take into account policy outcomes as well as financial outcomes or budgetary implications?

10:00

**Caroline Gardner:** I fully agree that the national performance framework is a good development—it is good for any Government to be so clear about its objectives, how they link together and how progress will be measured. The framework is a first step. Over time, I would like more of a link to develop between the objectives in the national performance framework and the way in which public money is used. That would involve the way in which the Government reports progress against the framework and how much it cost to achieve different improvements, and the way that the framework informs proposals for resource allocation and for investing in one area and disinvesting in another. By extension, it would make perfect sense for the independent fiscal body to be able to take into account the links between the Government's forecasts and the objectives that it sets through the national performance framework. That is not easy—it is an ambitious thing to do and, as you have said, it is unusual for Governments to commit themselves to doing that. However, that would be a positive direction of travel for the future.

**Jean Urquhart:** You suggest that the Scottish body could be required to co-operate with the equivalent United Kingdom body. What comparisons could be made if our policies were quite different, as they already are in some cases? Should we limit or restrict the comparisons that could be made?

**Caroline Gardner:** The answer to that has two strands. While Scotland still has links with the rest of the UK—I phrase that carefully because none of us knows where the journey that we are on will end—there will be areas of common interest between a Scottish forecasting body and the OBR. It is in no one's interest for the forecasts that they produce to be divergent for reasons that are not well understood, so, at the very least, there would need to be transparency in the way in which they reached their forecasts on areas of common interest. Ideally, there would be consensus, which would strengthen decision making.

The more Scotland's finances are independent of those of the rest of the UK, the more likely it is that there will be fewer such areas, but there will probably still be a benefit from sharing expertise and information and learning from each other in the way that we currently do with our colleagues in the National Audit Office, in Wales and so on.

Such a professional network can help to build the capacity that we will start off with here in Scotland and to ensure that we get the most from the investment that we make in it.

**Jean Urquhart:** On the timeframe, the cabinet secretary has said that he would like the body to be in place by 2015. Your advice is that we should almost keep it simple and start with a smaller body. Is that because we need to get the remit that we want to end up with right in the first instance, with only part of it being activated, or do you see a remit that changes as time goes on?

**Caroline Gardner:** I very much expect it to change as time goes on. For me, there are two key things. The first is to ensure that what is in place is flexible and can evolve in the face of different circumstances and a different environment here in Scotland. Secondly, whatever is put in place as a starting point must be transparent. Forecasts will need to be made for the land and buildings transaction tax, the landfill tax and the Scottish rate of income tax. It is important that whatever forecasts we have on those are as transparent as they can be and, for the same reasons, the eventual aim is to have an independent body doing that, increasing transparency in a different way.

**Gavin Brown (Lothian) (Con):** Paragraph 10 of your submission states:

"In accordance with the OECD principles the body should have ... access to all information held by government that it needs for its work".

Obviously, that is a sensible suggestion. From your years of experience in Audit Scotland, do you think that there needs to be a statutory right to all information, or should the body have a sort of memorandum of understanding with each Government department? Will you outline how the process works for Audit Scotland and say how you think it ought to work for a fiscal body?

**Caroline Gardner:** That right should be enshrined in statute. That is important symbolically and to strengthen the position of the body in carrying out its work and as that work evolves in future.

I do not think that statute can or should contain the detail of what "information" means, so there is a role for a memorandum of understanding or other ways of working that help to develop that in future. I know that you heard in your evidence sessions about some of the tensions that can come into play, particularly when the politics get more fraught, so enshrining in legislation the body's access to information is a very important starting point. However, legislation will never be able to cover all the nuances or types of information that might be required over time.

**Gavin Brown:** The broad principle should be set out in legislation, with the detail worked out later.

**Caroline Gardner:** Yes, that should be done elsewhere.

**Gavin Brown:** Is that roughly how it works with your organisation?

**Caroline Gardner:** Indeed. My right of access to information is enshrined in the Scotland Act 1998 and the Public Finance and Accountability (Scotland) Act 2000. The "Scottish Public Finance Manual" sets out how we carry out our work with Government and other bodies.

**Gavin Brown:** When the convener asked about external evaluation, you explained how your organisation deals with that, mentioning ICAS among other bodies. Is that external evaluation a statutory requirement, or does Audit Scotland make that choice to boost its credibility or because it is the right thing to do? What is the mix?

**Caroline Gardner:** It is not a statutory requirement but it follows on from the accounting and auditing standards that we are required to follow. Even if that were not the case, we would want to do as much of that as we could because credibility is very important to us. Russell Frith is responsible for that area of work, so I ask him to take you through how we have built that up over time and how we report it.

**Russell Frith:** For us, another factor is that equivalent organisations in the private sector, which audit private companies, are under a pretty much statutory framework that requires oversight and regulation. Therefore, it is good practice that we should be subject to the same standards that we would be subject to if we operated in the private sector. As the Auditor General said, we have various forms of peer review of the different parts of our work. Some of that is done by ICAS and some is done by other audit agencies.

**Gavin Brown:** The idea that the new body could cost major legislative proposals has been raised. I have a highly specific question about that. Do you have in mind the idea that it would produce the official financial memorandum, or should it comment on the financial memorandum?

**Caroline Gardner:** We are not proposing either—we are saying that that is something that could be a part of the forecasting body's remit, which could help with the question of scale. However, the downside is that that would bring the body closer to the political arena.

**Gavin Brown:** Sure.

**Caroline Gardner:** It would be an option for the body to produce the policy and financial memoranda—or rather the financial part of that—

but that would bring it very close to the Government's policy development area. That would be a big step in that it would perhaps bring it closer to Government and therefore limit its independence.

**Gavin Brown:** Thank you. That is all from me, convener.

**The Convener:** That concludes questions from the committee. Does Caroline Gardner wish to raise any further points?

**Caroline Gardner:** I do not think so. Thank you for the chance to talk to the committee this morning.

**The Convener:** Thank you very much for your answers.

I suspend the meeting to allow a changeover of witnesses.

10:08

*Meeting suspended.*

10:22

*On resuming—*

**The Convener:** This is the final evidence session of our inquiry into proposals for an independent fiscal body. I welcome to the meeting the Cabinet Secretary for Finance, Employment and Sustainable Growth. Mr Swinney is accompanied by Alistair Brown and Dr Graeme Roy, who are both from the Scottish Government. I wish you all a happy new year.

I invite the cabinet secretary to make a brief opening statement.

**The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney):** Thank you, convener. I wish you and the other members of the committee a happy new year.

I welcome the opportunity to give evidence to the committee's inquiry into proposals for an independent fiscal body to support the exercise of tax powers devolved by the Scotland Act 2012. As the committee will be aware, I have already stated to the committee my intention to create such a body.

I welcome the committee's interest in the issue and the considered evidence that has been provided to the inquiry to date through written and oral evidence from a range of experts and interested parties. That evidence is being considered carefully by the Scottish Government as we develop our proposals to create an independent fiscal commission. I have yet to take final decisions on the structure and functions of a

new Scottish fiscal commission. Those decisions will be taken and made public once I have had the opportunity to consider the inquiry's findings.

There is now widespread international recognition of the key role that independent fiscal commissions fulfil within the overall fiscal framework that supports an economy. Effective commissions can strengthen the fiscal credibility of the forecasts that are produced by Governments, provide a source of economic discipline and demonstrate fiscal competence.

The fiscal commission working group produced a report on fiscal rules and fiscal commissions in November last year. The group recommended that an independent Scottish fiscal commission should form part of the fiscal framework of an independent Scotland. It also recommended that the Scottish Government should establish an independent Scottish fiscal commission in preparation for the transfer of tax powers under the Scotland Act 2012. I welcomed that recommendation, which supports my intention to establish such an independent commission to enhance the credibility of revenue forecasts for the devolved taxes.

It is nevertheless important that we maintain a sense of proportion as we discuss proposals for a fiscal commission. When it is first established, the commission will have a remit that is proportionate to the powers that are devolved by the Scotland Act 2012, which will ensure that it provides the appropriate level of assurance to Parliament and the public and remains cost effective in its operation. In maintaining that sense of proportion, we must ensure that the fiscal commission addresses or fits into the existing financial scrutiny landscape that is already provided for by the arrangements of the Scotland Act 1998, the public finance and accountability legislation and, principally, the role of Parliament, this committee and other bodies that are set up to exercise financial scrutiny, such as Audit Scotland, the Accounts Commission and even the financial scrutiny unit that was established in the Parliament.

The Parliament does not yet have full fiscal powers so it would not be appropriate to announce at this time plans to establish a commission on the scale of those that fully support independent countries. The referendum outcome will be a key milestone in the development of a Scottish fiscal commission and a point at which we take stock of its functions, remit and size and start the process of placing it on a statutory footing. The expanded Scottish fiscal commission, which we would establish on independence, would be a continuation of, not a replacement for, the commission that will be established this year to support devolved taxes. In particular, I would

expect the members of the commission who are appointed this year to remain in place throughout this journey.

The final point that I wish to highlight in these opening remarks is that it will be critical to a new Scottish fiscal commission's effectiveness and credibility that it is independent of Government and is seen to be so. The independence of a Scottish fiscal commission would be upheld by formal safeguards as well as by the general conduct of the commission and its members. Formal safeguards would include the appointment process, the protection of financial resources for the commission and a formal public statement that clarifies and governs the relationship between the commission and Scottish ministers. It is my intention that the Finance Committee, as representative of the wider Parliament, will play a key role in protecting the new commission's independence.

I am pleased to have this opportunity to answer questions from the committee.

**The Convener:** Thank you very much for that fairly comprehensive opening statement. I think that you have probably answered a lot of questions that committee members would want to ask but, of course, when questions are answered they lead to other questions. I appreciate that you will be taking decisions only once the inquiry has concluded, but the committee will of course try to tease out some answers from you over the next hour or so, to try to gauge your thinking.

I will start with a few questions in the usual fashion and I will touch on what you discussed just before you closed, which was appointment accountability. Audit Scotland was in before you and it links the methods of appointment accountability with achievement of the principles of independence and non-partisanship. In the case of appointments to a Scottish body, Audit Scotland said that

"there is a case for involving both"

the Parliament and the Executive

"in the most significant appointments eg chair and senior professional."

Where should the balance be struck on those appointments? What are your feelings on that issue?

**John Swinney:** I come at the issue from the perspective that one of the central requirements of the Scottish fiscal commission is that it must be independent and seen to be independent. In the manner of the appointment process and the style and duration of appointments, it is important that there can be no question that any individual has arrived at that process without due regard having been paid to the expertise that they can contribute

to it or the experience that they have that can assist us in the task that must be undertaken, or that the process has not satisfied wider scrutiny of its independence.

There is a role for ministers in an element of the appointment process and I see a role for Parliament in an element of the process. My views are not fixed on how that should be turned into practical reality. I am very open to the involvement of this committee in considering how the appointments are made and the appointment process. Generally, I have taken an approach that has tried to maximise the degree to which the committee is involved in all aspects of the Government's financial work, so undoubtedly there is a role for Government and Parliament in the process.

10:30

One point on which I am slightly firmer concerns the duration of office and the nature of the appointments that are made. I am firmly of the view that no individual should ever be reappointed to an independent fiscal commission, and that individuals should serve only one term. The Auditor General pointed out to the committee earlier that she serves one single eight-year term and is ineligible for reappointment. That type of approach sends a clear signal about appointees not being beholden to anybody, because there are no worries about reappointment. I am not wedded to the notion of an eight-year term, but I certainly think that single terms are the order of the day.

A fair point, which the committee discussed with the Auditor General this morning, is that there must be a rolling retention of expertise rather than a one-team-in, one-team-out approach, which would affect the credibility and inherent strength of a body. Having individuals who are initially appointed to serve for different periods of time but only in single terms of office is perhaps the best way to proceed in that respect.

I leave with the committee the clear point that an individual should be appointed for a single term only.

**The Convener:** You say that you are not wedded to a term of eight years, which seems like an odd time period. A point that a number of witnesses raised in evidence to the committee was that it would be good if the appointment period did not coincide with the electoral cycle. The only way to guarantee that would be to plan on a permanent basis. If there was a five-year term rather than a term of six, seven or eight years, that would guarantee that the terms of office would never match up with the electoral cycle. Are you thinking of that sort of time period?

**John Swinney:** My thinking is that a term of office would be somewhere between four and six years. I could probably be persuaded by six years, although it might be advantageous to have some members appointed for six years and some for five so that we can deal with the issue of rotation and ensure that the commission retains skills and expertise.

I accept that the appointment process and timetable must be entirely separate from the political cycle. If the body is to be independent, the terms should have no relevance to the political cycle whatsoever. It would not matter who is in government. As long as we have an expert fiscal commission, it can exercise its responsibilities. I am open to exploring how we can best progress such an approach.

**The Convener:** Should the convener of an independent fiscal commission appoint the people—or some of them—who work for that body? Where do you stand on that issue? Would there be a mix of appointments and the commission recruiting its own members?

**John Swinney:** That is a difficult area. I am committed to the principle of independence with regard to the substance and perception of a fiscal commission. However, to come back to a point that I made in my opening remarks, I believe that the commission has to sit within the existing firmament of financial structures, and has principally to take account of the role of Parliament. Parliament is the democratic decision-making body of Scotland, and I would be a bit nervous about establishing a body that would have the ability to appoint its own members. I am not sure that such an approach would fit in with the balance between the Government and Parliament, in which the Parliament is elected by the public and the Government is selected by Parliament by virtue of its election of the First Minister, who has the ability to appoint his ministers.

I would be instinctively nervous about a situation in which a Scottish fiscal commission would have the ability—as the OBR has—to appoint its own members, because that would not take due account of the nature of the democratic structures that exist in Scotland.

**The Convener:** One of the things that came up in Audit Scotland's evidence, although David Bell and others have talked about the issue, is the amount of work that would be available to the body. In your opening statement, you talked about its dealing with a fairly limited number of areas, at least initially. Are you of the view that it should have a small, full-time core of staff or, given that there may not be enough work, at least initially, to maintain a group of experts working full time in the field, should there be a full-time convener and a

number of people from a variety of backgrounds who can be called on?

**John Swinney:** The key approach is to maintain a sense of proportion in the establishment of the body. It is clear to me that the body's remit and role is to support the forecasting process in relation to the new taxes that are being devolved to the Scottish Parliament. That is the core substance of the remit that I believe is appropriate for a Scottish fiscal commission at this stage. I add the caveat that, if our financial responsibilities expand as a consequence of the referendum in September, I will look for the body to have a wider set of responsibilities. However, as I see it, the body will have responsibility for supporting the forecasting process in relation to the land and buildings transaction tax, the landfill tax and the Scottish rate of income tax.

In relation to the landfill tax and the land and buildings transaction tax, that function will become relevant very soon, as the forecasting of those taxes will be material to the setting of the 2015-16 budget, which will come before Parliament in the autumn. That is the core substantive piece of work that will have to be undertaken by the fiscal commission in the short term and should guide what structure and resources we put in place. I certainly do not believe that we will be required to allocate a particularly significant amount of resource to that process. It must be done well, but we must maintain a sense of proportion about what work needs to be done to prepare for the introduction of those two taxes in 2015-16. The next step in the process, notwithstanding any changes that may arise from the referendum, will be preparation for the forecasting around the Scottish rate of income tax.

In the shorter term, we will deploy limited resources to the establishment of the fiscal commission. However, the commission's role will expand in due course as our powers and responsibilities expand.

**The Convener:** That is interesting. In a lot of the evidence that we have received, people have said that the body could do this or that. For example, Professor Bell suggested a possible role in considering the distributional impact of budgetary decisions. You are saying that you want the body to have a fairly narrow focus, at least initially, but that, as time goes by and capacity increases, its remit could be enhanced depending on the result of the referendum and further powers being devolved to Scotland.

**John Swinney:** I am addressing two particular issues. The first is the role of the commission in the short term, which is to provide a forecasting capacity in relation to the taxes that are being devolved to the Scottish Parliament as a consequence of the Scotland Act 2012. The

requirements of that role are quite easy to define in terms of what needs to be done to support that process.

The second point that I am making—it is one of the other points that I made in my opening statement—is that I do not want the establishment of a Scottish fiscal commission to be used as an excuse to intrude on the responsibilities of other bodies that already undertake particular functions. The necessity for us to have a fiscal commission is to fulfil the first function that I talked about, which is to forecast the likely tax receipts in relation to the taxes that will be devolved to us. We have to be careful, in the steps that we take, that we do not establish a body that has the capacity or scope to intrude on properly established arrangements for financial scrutiny that are well established by statute and the processes and operations of Parliament.

**The Convener:** Colleagues want to ask questions, so I will ask only one further question at this stage.

On forecasting, some witnesses have talked about gaps in data. Do we have, or will we have, all the data that would be required in order to make accurate forecasts for the taxes that you are talking about the body focusing on?

Secondly, I hear what you are saying about treading on the toes of other organisations, but is one of the reasons why the Scottish Government is reluctant to expand the remit of the body to do with the fact that we just do not have the data to be able to do that at this stage in any case?

**John Swinney:** That has nothing to do with my thinking.

**The Convener:** That is fine; I just wanted to clarify that.

**John Swinney:** With regard to the taxes that will be devolved to us under the Scotland Act 2012, I am confident that, for example, the process that is being undertaken just now to establish the Scottish taxpayer base in relation to the Scottish rate of income tax, which we are undertaking in collaboration with HMRC, will provide data that does not currently exist. That is simply because the issues have been defined. There are certain gaps today, but that will be dealt with through the taking forward of the programmes to implement those particular tax changes. Certainly, none of my views is informed by a concern over a lack of data.

**The Convener:** That is interesting. Will the fiscal body carry out the forecasts or will it comment on forecasts that are carried out by the Government?

**John Swinney:** That is a point on which I have not come to a firm view. There are different

models. The evidence that the committee has taken from the Organisation for Economic Co-operation and Development suggests that the largest block of independent fiscal commissions that the OECD has surveyed consists of bodies that assess the forecasts that Governments produce. From a perspective of regularity of use of data and expertise in formulating views on the utilisation of that data, there is no surprise that that is the case. It rather deals with my point that there is a lot of regular work on financial analysis that is undertaken by Government and which requires external scrutiny. Obviously, the Office for Budget Responsibility is an example of the more limited number of cases in which the independent fiscal commission constructs the forecast itself. However, given that that arrangement operates on the basis of secondment from the Treasury to the OBR, there is a justifiable degree of scepticism about how far from Government the office is. It uses the same models and the same data, which is analysed by the same civil servants.

For the sake of clarity about the nature of arrangements, it might be simpler to say that the Government will produce an estimate, and the fiscal commission—established independently, with independent scrutiny powers—can challenge that and comment on whether it is appropriate. I will leave it for members to decide how comfortable they would be with me, as finance minister, standing up and saying, “Here’s my forecast and here’s the Scottish fiscal commission’s forecast, and they are different.”

10:45

**The Convener:** I am sure that Gavin Brown and others would back you 100 per cent.

**John Swinney:** I am sure that there would be a queue of supporters in the parliamentary chamber for my announcement on that particular issue.

**John Mason:** I want to expand on some of the points that have been raised. On data availability, you have made the point, as has Audit Scotland, that in some cases there is no data on an issue—for example, on Scottish taxpayers. In other areas, HMRC and so on may have data but it is not available to most of us and it would presumably take some time for the new body to get access to it.

How do you see the timescale for this? The new body will take a while to get up and running. Some things will be starting from scratch, such as the Scottish rate of income tax; in other areas, such as landfill tax, the new body may be able to get information going back a bit in order to help it to make forecasts. Will it take a number of years before the new body is fully functioning?

**John Swinney:** On the Scottish rate of income tax, the way in which the United Kingdom Government is legislating for the power means that it will take time for estimates to settle down. There will be a period of transition, which means that there will be no gain or loss as we work our way through that. That represents the practical recognition of the fact that it will take time to ensure proper and effective forecasts within safe margins, so that the Scottish Government can then be responsible for that aspect of income tax.

In relation to stamp duty—or land and buildings transaction tax, as it is now—and landfill tax, I am confident that we have the data and material that will ensure that, as we work through the project with HMRC, we are properly equipped to arrive at appropriate forecasts of the revenue that will be generated. As with all forecasts, there will undoubtedly be gaps—they can be under or they can be over. That is the nature of the territory that we are getting into. However, by the time that those taxes are enacted, I think that we will be well equipped.

**John Mason:** If there were a yes vote in the referendum, presumably the remit would have to expand quite rapidly.

**John Swinney:** It would expand within the timescale that the Government has set out, which is between the referendum in autumn 2014 and the practical implementation of independence in 2016.

**John Mason:** Okay. Going back to the issue of appointments, I noted your comment that Parliament is sovereign—under the people, I suppose—and should be making the final decisions. We discussed this issue a wee bit with Audit Scotland, too, which referred to the OBR. Three out of five of the OBR board are appointed by Government with parliamentary approval. Is your suggestion that it would be better if all of the members were appointed by Government with parliamentary approval?

**John Swinney:** Instinctively, that is where I feel more comfortable. I feel uncomfortable about parliamentary consent being given to appointments made by Government and then the body having the ability to make further appointments.

I am trying to think about precedents for such an approach. In the context of the public appointments over which I preside, for example, I appoint the chair of Scottish Enterprise and I appoint the board members; the chair does not have the ability to add people to the board as he or she sees fit.

I cannot quite rationalise how such an ability would sit comfortably with the principles that we deploy in the public appointments process, which



is undertaken on the basis that ministers exercise certain responsibilities to make appointments—in some cases the Parliament exercises those responsibilities, when the function is exclusively to do with parliamentary scrutiny. I would take a lot of persuading that giving a power of appointment to a chair whom Government nominated and the Parliament approved is consistent with our approach to appointments. However, I am not wedded to that position.

**John Mason:** I follow your logic. However, if all members are appointed by the Parliament, will there be a perception that the body is too close to the Parliament? Would the body be perceived in a better way if it could appoint some of its members? Is there an advantage to such an approach?

**John Swinney:** I can see the logic of that argument, but it does not sit comfortably with me. I am a devoted parliamentarian at heart—although I might not always be accused of being so by fellow members in the Opposition parties—and the thought that we might pass to another body a responsibility that is within our scope and competence makes me uncomfortable.

**John Mason:** Audit Scotland talked about a “critical mass of work” a number of times. I think that we agree that the body should start small and then grow. Will there be the critical mass of work that is needed if we are to attract people of sufficient calibre to the body? Are there enough people out there? We heard from small countries that there are not many experts at the level that is required of someone who sits on the board of such a body.

**John Swinney:** The short answer to your questions is yes. I am absolutely confident that there are numerous individuals in Scotland who have the knowledge, the capability and the expertise that would enable them to participate in the activity that we are considering.

Equally, we should not be averse to appointments from outside Scotland. Why not? That would provide an element of external challenge on the issues, and provided that people are sufficiently conversant with the information, the issues and the detail, we should not be averse to their involvement. The appointments process should properly take into account the need to determine whether people are sufficiently experienced and capable of adding meaningfully to the process. I am confident about that.

This is a new area of activity, and people are always attracted to new areas of activity and involvement. I think that there will be great interest in the new body.

**John Mason:** Thank you.

**Malcolm Chisholm:** Cabinet secretary, you expressed concern about the new body intruding on other bodies. I asked Audit Scotland about its relationship with the new body, and it thought that there is a clear demarcation between the two bodies, so the new body will not intrude on Audit Scotland’s activity. What other bodies did you have in mind?

**John Swinney:** My comment was driven by my desire to be clear with the committee about what I think is within scope for the remit of the Scottish fiscal commission. If we give the commission too broad a remit beyond the forecasting of the taxes that are being devolved to Scotland as a consequence of the Scotland Act 2012, we will create the opportunity for intrusion into the responsibilities of other bodies. I am simply saying that uppermost in my mind will be the need to avoid creating the conditions in which the body can move into territory that is properly the responsibility of organisations that we all accept have been properly constituted.

**Malcolm Chisholm:** Could you give an example of what that might involve?

**John Swinney:** I think that, if the body was allowed to consider suggestions about and the evaluation of policy choices, for example, it would intrude on the role of Parliament.

**Malcolm Chisholm:** Okay. That is quite helpful.

Obviously, you are open minded—you said that at the beginning—but we are getting quite a clear steer from you, which I will summarise; you can correct me if you wish to do so. I think that you envisage the body commenting on Government forecasts and therefore probably being quite small with a limited remit to begin with, but it might potentially have a bigger remit following constitutional developments. In light of your comment about policy choices and intruding on the responsibilities of other bodies, I presume that you would, in principle, have a concern about a wider remit for the body even if Scotland became independent, as the same principle would apply.

**John Swinney:** That is absolutely correct. For the record, Mr Chisholm fairly sums up where my mind is on a number of questions. The issues to do with the body’s development in relation to the question of policy choices, for example, would in my view be entirely the same if Scotland were to be an independent country.

**Malcolm Chisholm:** We have received some evidence about a wider remit. Obviously you would not be happy about the Swedish model, in which people comment on and recommend improvements to current fiscal policies.

We will take two examples, one at a time. Professor David Bell, whom you will know well,

suggested a possible role in considering the distributional impacts of budgetary decisions and assessing environmental impact statements and equalities statements. Would that be ruled out as intruding?

**John Swinney:** I think that that is proper territory for Parliament to hold the Government to account on, in both areas of policy.

**Malcolm Chisholm:** Another interesting issue that came up in our questioning of Audit Scotland is whether the body might have a role in “costing major legislative proposals”. I suppose that that could be modified to its commenting on financial memorandums by analogy with commenting on Government forecasts. Would that be a possible role for the body, or would you have concerns about that?

**John Swinney:** I think that that is another area in which the proper arrangements are in place now. Parliament scrutinises the financial memorandums that are put forward. I have seen this distinguished committee looking at certain financial memorandums with wry observation, if I could put it as gently as that. I do not think that there is a lack of scrutiny of financial memorandums.

**Malcolm Chisholm:** The evidence that you have given is very interesting. It sounds as if, in principle, you want quite a narrow remit for the body, whatever the constitutional arrangements are.

**John Swinney:** I think that it should be a body to provide independent authority to forecasts. If the range of elements for which we have to forecast expands significantly, it is clear that the body’s responsibilities would expand to deal with that. At heart, I see the Scottish fiscal commission being a body that comments on forecasts that are relevant to the public finances, in relation to the raising of taxes. If our responsibilities expand as a consequence of the referendum in September, in that spirit the commission’s responsibilities will expand into the bargain.

**Malcolm Chisholm:** What are your concerns about the OBR model? In a way, it is narrow, but it does the forecasts.

**John Swinney:** My sense is that the Government will do the forecasts anyway. We would have to: the Government cannot simply say, “Well, we’ll just sit here and wait to see what we get from the OBR.” It simply does not work like that. We will do the forecasts anyway.

I do not think that it can add to the public’s confidence in the whole mechanism when it is suggested that somehow a body outside of Government is actually doing the forecast and adding value to the crunching of the numbers

when in fact the numbers have been crunched by the Government itself. I just do not think that that would enhance the perception of the whole enterprise.

11:00

**Malcolm Chisholm:** In a way, therefore, you are taking most but not all of the potential controversy out of the way. Caroline Gardner said that the wider remit is, the more it will potentially intrude on political areas. You are rejecting that in the sense that, as far as possible, the group will be more of a technical and objective group.

Given that the group will have such a narrow remit and that technical, economic and financial expertise will be required, does that suggest that it may be possible to have a different appointments process? The whole point about the way you appoint people to Scottish Enterprise and other bodies is that they are accountable to you and that you have oversight and, in the loose sense, control. Your relationship with the new body will not be like that, so should that not mean that there should be a different appointments process?

**John Swinney:** I envisage that there will be a different appointments process. Let me take the contrast of the Scottish Enterprise model. I appoint the chair and members of the board of Scottish Enterprise and I notify Parliament, but I do not seek parliamentary endorsement, in any shape or form, for my appointments because I am entitled to make them under the Enterprise and New Towns (Scotland) Act 1990.

For this new model, a different appointments process will clearly be taken forward because, at the very least, I cannot see how people can be appointed to the body and how its independence can be protected without the consent of Parliament in some way, whether through an interaction with the Finance Committee or by parliamentary resolution.

**Malcolm Chisholm:** Okay. All of that is very interesting. Thank you.

**Gavin Brown:** The fiscal commission working group said in its report that

“scrutiny could also be extended to include forecasts of existing devolved taxes (council tax and non-domestic rates).”

What is the Scottish Government’s response to that suggestion?

**John Swinney:** The Scottish Government does not forecast council tax; it is probably a matter for individual local authorities. I would therefore be reluctant—well, not reluctant; I would be hostile to the fiscal commission getting into that territory because it would be intruding on the proper

responsibilities of local government, and I have no desire to do that.

I am certainly open to considering the question of non-domestic rates. The forecasting of non-domestic rates is a combination of assessments made at local authority level and analysis by civil servants, with decisions taken by ministers on the degree to which we can utilise the forecasts that are brought forward. I am certainly open to considering whether there is a role to be undertaken on non-domestic rates, but not on council tax.

**Gavin Brown:** Can you expand a little on how you see the timetable working out? You said in a letter to the committee that you obviously want things to be up and running in advance of April 2015 and that you

“would envisage ... an independent assessment being available”

to this committee each autumn, starting with the draft budget for 2015-16, which I guess will mean that it will be available in autumn this year. Does the Government have a timetable at the moment for when you would appoint people and when the commission would begin its work? How long do you think that they would need in order to publish an assessment for that timetable?

**John Swinney:** Essentially, I am waiting for the outcome of this committee's inquiry. It would be utterly disrespectful of me to proceed to decisions without waiting for this committee to conclude its proceedings. Once the committee's report is to hand, I will move very swiftly to appoint a commission and to establish the remit and the basis of proceedings.

Obviously, I would need a quick interaction with the committee on my response, so I suspect that the normal protocols—the however many weeks I have to respond and all the to-ing and fro-ing that goes with that—will have to go by the wayside. This time round, the establishment of a remit and the appointment of members to take it forward will have to be done a great deal more swiftly. I will look to establish the commission on—I do not know whether this is the right term, but I shall use it anyway—a sort of quasi-statutory basis. The basis on which we establish the commission in the short term will remain the same when we put it on a statutory footing, which I intend to do when the opportunity arises. That will enable the commission to be in place and to provide me with the forecasts that are required to underpin the budget and fulfil my commitments to Parliament under the written agreement, which, as we have discussed, might have to be amended to take into account the new responsibilities.

**Gavin Brown:** Just to check that I have understood that correctly, are you saying that

there will not be primary legislation to set up the body initially? The idea is that you will set up the principles and ultimately there will be primary legislation, but that will not be in advance of the first forecast.

**John Swinney:** There will have to be primary legislation. I want to have the arrangements in place as if we had legislation to enable the functions to be carried out for the 2015-16 budget. There is just no physical way in which the legislation could be put through Parliament in that time, because it would have to be primary legislation. Essentially, my approach would be to work with the committee to come to an agreed way of proceeding, if the committee desired to do so. I would then follow that up with primary legislation in due course.

**Gavin Brown:** A number of stakeholders have given evidence to the committee orally and in written submissions. Given the likely swift timetable, is there a way for stakeholders to contribute directly to Government? Will there be a consultation of some sort? How are stakeholders feeding in directly to the Government on the issue, if they are doing so?

**John Swinney:** Obviously, we had a certain amount of input through the fiscal commission working group, which we have looked at and considered. We have been looking closely at the material that has been submitted to the committee in this respect, and I have been discussing with my officials my emerging thinking on the point. I have not undertaken the normal consultation process of inviting contributions, but my officials have been speaking to a range of interested experts on the subject to ensure that our views are informed by their input in addition to the matters that the committee has been considering.

**Jean Urquhart:** My questions have probably been answered in the cabinet secretary's answers to the previous two questioners. From some of the evidence that we have heard and the presentations that have been made, it feels as if there is to be a rather reduced remit for the new commission, certainly in the first instance. I hear what you say about the OBR and its apparent closeness to Government and your anxiety to make the commission in Scotland quite different. Would you seek to change other parts of the OBR remit in creating the remit for the SFC?

**John Swinney:** I would describe the remit that I want the fiscal commission to have as focused—I would not use the word “limited”. I want the commission to fulfil a specific purpose, which is to comment on the forecasting of tax revenues.

Loads of other bodies produce loads of other analyses of all other aspects of public finances, and I do not want to create a body that duplicates,

replicates or gets into competition with those bodies. This is a new function that has to be undertaken, and I want the forecasting of tax revenues to be undertaken in a very focused way. That will drive my thinking about what goes into the body's remit. If I define a remit that is broad in scope, I will open up the opportunity for the body to do exactly what I am telling the committee I do not want it to do. I want it to be focused on the forecasting activity.

**Dave Thompson (Skye, Lochaber and Badenoch) (SNP):** Good morning, cabinet secretary. I would like to return to a point that was raised by John Mason. You have talked about the appointment of the board of the Scottish fiscal commission. Do you envisage that that will be subject to the normal, standard rules for public appointments that are overseen by the Commissioner for Ethical Standards in Public Life in Scotland? There are set procedures, recommendations are made, there is anonymity and there is a procedure to ensure that a broad range of people can get on to public bodies. Do you envisage that the appointments will be subject to those rules?

**John Swinney:** I want to reserve my position on that point. Mr Thompson raises an important point about the need to guarantee that a proper, independent process has been undertaken. However, it would be rather difficult to proceed through an awful lot of the scrutiny of potential members of the commission while preserving their anonymity, given the type of forecasting work that will be involved and the need for them to be able to comment. Let us say that we opt for the model whereby the Government produces the estimates and the commission scrutinises those forecasts. With the greatest respect, not everybody can do that challenging work. We may be searching for people with particular expertise in tax forecasting, and we cannot do that on an anonymous basis.

I therefore want to reserve my position on Mr Thompson's point without in any way undermining the importance of our undertaking an independent, transparent process to complete the appointments.

**Dave Thompson:** I take what you say, cabinet secretary. You are right that there will be a restricted number of such people and there may be no anonymity at all because the folk who make such appointments will probably know all the names, as they no doubt do already, in some cases, when they make appointments to other public bodies. The point is that the commission will be an extremely important public body and, in order for the process to be absolutely clear and transparent, the ethical standards commissioner may have a role in it.

**John Swinney:** It is helpful of Mr Thompson to raise the point. I give the committee the commitment that, as part of my thinking before I come to my conclusions, I will consult the commissioner to determine his view on the matter.

**Michael McMahon:** I seek clarification on an issue that I have pursued throughout all the evidence that we have taken. You have more or less indicated your thinking on the matter this morning, but some of the evidence that we have received has proposed that we allow the fiscal body not just to analyse and project but to suggest policy direction. You have indicated that you would prefer not to see that, but the Auditor General said this morning that, although she would not want to see that initially, that could be left open in the longer term as the commission develops. Are you ruling that out?

**John Swinney:** I would rule that out, Mr McMahon. I think that those issues are the proper preserve of members of the Parliament.

**The Convener:** That concludes the questions that colleagues around the table have for you, but I have a couple more.

Should the commission have the ability to appoint its own members of staff to support the commission members? I am distinguishing between commission members and members of staff.

**John Swinney:** Yes.

**The Convener:** Page 11 of the fiscal commission working group's report, "Fiscal Rules and Fiscal Commissions", makes the following recommendation:

"the Scottish Fiscal Commission should assess Scotland's long term fiscal position and the Scottish Government's adherence to its fiscal rules".

Would that be one of the roles of the new body?

**John Swinney:** That is a scenario that is argued for in connection with Scotland being an independent country. That is the type of assessment that I think it would be appropriate for a fiscal commission to undertake were there to be a yes vote in the referendum.

**The Convener:** Do you wish to make any further points at this stage?

**John Swinney:** No.

**The Convener:** Thank you for giving such clear and concise answers to our questions. That concludes this week's meeting.

*Meeting closed at 11:15.*

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

---

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by APS Group Scotland.

All documents are available on  
the Scottish Parliament website at:

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

For details of documents available to  
order in hard copy format, please contact:  
APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact  
Public Information on:

Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

e-format first available  
ISBN 978-1-78392-461-5

Revised e-format available  
ISBN 978-1-78392-468-4