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Official Report

FINANCE COMMITTEE

Wednesday 30 October 2013

Session 4

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FINANCE COMMITTEE
26th 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:

Eleanor Emberson (Scottish Government)
John King (Registers of Scotland)
Peter Reekie (Scottish Futures Trust)
Barry White (Scottish Futures Trust)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

Committee Room 3

Scottish Parliament

Finance Committee

Wednesday 30 October 2013

[The Convener *opened the meeting at 10:00*]

Draft Budget Scrutiny 2014-15

The Convener (Kenneth Gibson): Good morning, and welcome to the 26th meeting in 2013 of the Finance Committee of the Scottish Parliament. First, I remind everyone present to switch off mobile phones and other electronic devices.

Our first item of business today is evidence from Barry White and Peter Reekie of the Scottish Futures Trust, as part of our scrutiny of the draft budget for 2014-15. I welcome our witnesses and invite one of them to make a brief opening statement.

Barry White (Scottish Futures Trust): Thank you for the introduction. I am the chief executive of the Scottish Futures Trust, and I am accompanied today by Peter Reekie, who is the finance director of the trust and the senior management team member responsible for the non-profit-distributing programme. I am delighted to be back here after giving evidence previously, and I thank you very much for the invitation to be here. We have submitted quite a detailed paper; I am very happy to talk about any elements of it as we go through the meeting.

By way of introduction, I will stress three separate things. First, one of our key driving forces is that investment should be in the right thing. Obviously, the Government decides the overall prioritisation, but our work with local authorities and health boards is very much about ensuring that the scope of the individual project is right. We are going through a period of change; for example, we are building on early work in community health partnerships and are now seeing a lot of health and social care integration and joint facilities being developed. The work that health boards and local authorities are putting in to ensure that those joint facilities are developed in a way that will support public services is a really strong feature of public service in Scotland.

We are, as a country, ambitious in the delivery of schools and health projects. Through the hub programme and our wider work in asset management, we have established a mechanism of co-operation that now allows impetus to be built, which is a key opportunity. Of course, that takes time, and with regard to both our and many procuring authorities' early estimates of project development, it has taken longer to develop some projects than we anticipated. In many cases, we assumed that more work had been done prior to the projects coming on to the NPD programme than had been done.

Secondly, a key driver of the SFT's activities is increasing investment. Beyond the NPD programme, there is tax increment financing, through which about £5 million of public works will take place this year. More important is the private sector investment that that unlocks; we will have about £58 million of investment through the national housing trust. That, too, unlocks private investment; for instance, 99 houses in Dundee being sold to the national housing trust has unlocked a development of 200 houses, with the private sector developing the other 101 houses and selling or renting them in the private market. Unlocking private sector investment through public sector investment is a key driver.

Within the NPD programme, some of the projects that we are working on have incredible strategic importance. For example, Inverness College is a key feature of the Highlands and Islands Enterprise-backed business park in Inverness. Being able to show potential new tenants around a business park in which a college is being built rather than being talked about is a major asset. Major road schemes such as the M8 and the Aberdeen western peripheral route are of incredible strategic economic importance. One is in procurement with a preferred bidder and one is in the early stages of procurement, but the commitment to those projects is in itself having positive effects. One of the critical differences in NPD is that the money follows the project. Within our profiling, we have always been very clear that the profile depends on project progress, as I described when I gave evidence to the committee previously.

Thirdly, we see part of our role in SFT as being to challenge the status quo. We do not use historic benchmarks or "situation normal" as a benchmark, as I have said before. We are incredibly challenging with our public sector partners and we set ambitious timelines. We set out in our submission the reasons for the movement of the NPD pipeline and highlighted some of the recent comments that have made by the construction procurement review. It said:

> "We believe that it is in everyone's best interests to make as much information available as possible, and to be as open as possible about the status of plans for any given project. This will mean that published plans change ... Industry is pushing for this information, and if the public sector is to make it available, industry and its representatives must not only accept the risk that it is subject to change, but also recognise the danger that unreasonable criticism of such change would likely reduce that information flow."

In many ways, with the NPD pipeline we have led the way in the public sector in transparency in publishing pipeline information. As a result, we are getting great competition in NPD projects and the NPD pipeline. We are attracting great competition and great financing and we are achieving great value for money, and the changes that we have made to the structure will also provide much greater flexibility for public sector users in the future.

As members can see from our submission, the confidence behind the profile gives greater certainty, with 84 per cent of the projects by value now past the initial approval stage or outline business case, compared with only 38 per cent when we last did the profile. It does not give us 100 per cent certainty, but it gives us greater certainty. The timescales remain challenging, but I am very pleased that the first three major projects in the NPD pipeline—Inverness College, the City of Glasgow College and the M8 preferred bidder—are all progressing in line to be open and up and running at the dates that were first mooted when their outline business case was done.

With £1.9 billion-worth of projects now in procurement or hub development, we are working closely with hard-working local teams. We have challenges in timing, planning processes—which take time in certain cases—and land acquisition, but on the industry side, design work is sustaining significant numbers of high-quality jobs in advance of construction starting, and the economic value of that is not really reflected in our pipeline numbers.

I am very proud of the team in the SFT and of the way in which NPD is progressing. We are keen to make the quickest possible progress, but it is important to progress with the right projects and to ensure that there is investment for the long term in its fullest sense.

The Convener: Thank you very much.

I will ask the opening questions; I will then open up the session to colleagues around the table.

Your paper points out that the SFT has made some £503 million of savings to the public purse. That is a significant and genuine achievement that the SFT has been able to deliver, but are you concerned that that has been continually overshadowed by overestimation of what will be delivered in any given year in respect of projects on the ground? For example, you point out:

> “SFT recognises that there has been a significant reduction in anticipated capital investment through the NPD programme in both 2013-14 and 2014-15. Across these two years, there is a 24% reduction ... This does not reflect a reduction in the programme overall, but the capital profile has moved out in time.”

If we look from 2012-13 to 2014-15, we see that the difference is not 24 per cent, but 33 per cent—some £476 million. When you set the budget targets, are you being overambitious and leaving yourselves open to the criticism that we saw in Gavin Brown’s press release that came out yesterday, for example? You say that some NPD projects are being concluded at lower cost. Are you overambitious in what you put in the budget? You also say that some projects are taking longer to be prepared and planned. How much of the difference is due to lower costs and how much is due to projects taking longer to be prepared and planned?

Barry White: I will take the general question first, on all the good and the benefits that we deliver. Under the initial phases of the national housing trust, for instance, we have 1,009 homes contracted for, some 450 of which are occupied.

In Inverness, 20 people applied to rent every home; in Edinburgh, six people applied to rent every home. There is a huge demand for affordable homes, and £150 million-worth of housing delivered without any grant subsidy is a major achievement. That flows through to our benefit statement—the £500 million of benefits. The benefit of the SFT’s work is readily seen by the people who now have high-quality housing, affordable rents, much lower energy costs and professional landlords.

The work that we have done to simplify the NPD process will bear fruit for many years. Last night, I had the privilege of addressing the cross-party group on sport; there were many sporting bodies in attendance. One of the issues that was raised was that, in many older public finance initiative/public-private partnership contracts, public access has been quite a challenge. Our simplification of NPD and the work that the local authorities are doing in communities ensure that that investment will provide not only good schools but really good community facilities. Although that work has taken longer than we and the local authorities had anticipated—we are working with the local authorities, but they had in some cases suggested timescales that they were unable to achieve—it will bear fruit in the long run. We will end up with more sustainable investment through getting the right projects that will support not only the public service of education but local community use.

I do not have a specific split for the movement between cost savings and preparation time. For a school in North Lanarkshire on which we have worked with the council, the school roll has been adjusted downwards, which meant that a redesign of that school was needed. That represents extra preparation time, but it is also a cost saving in that, without that revision to the school roll, there was a risk that too big a school could have been built.

The split between the two is not necessarily neat. However, overall, longer preparation time, rather than confirmed cost savings, is the greater part of what has changed the profile.

The Convener: As I said initially, you have made genuinely significant savings for the public purse. The real issue for me and, I am sure, other committee members is the consistent overestimation of what will be delivered in a specific year. For example, the draft budget for 2012-13 estimated that £353 million of projects would be delivered in that year but, in the next draft budget, the figure for that year was £20 million. We are concerned about that difference.

As you point out in your conclusion:

> "the complex development of increasingly multi-user and multi-Authority facilities progress, land and stakeholder consultation issues are resolved and projects are procured and financed in an ever-changing environment."

I know it must be frustrating for you. In my constituency, there is an SFT project that will be delayed for a year because one of the landowners is trying to maximise the income that he can get from the local authority. That is not your fault, but you must be aware of such difficulties when you make projections. Every year, when you come to the committee, there seems to be a huge imbalance between what you think will be delivered in a specific year and what is actually delivered in that year. That obscures the achievements that you make.

Barry White: I will give two answers to that. First, we were always clear that the figure depended on project progress. The pipeline of information that we have put out has been incredibly helpful for drawing competition into the market, which is providing great value for money.

Secondly, to cite the example that is given in our written submission, one school project for which revenue funding or NPD funding was announced in 2010 and another school project for the same authority that was given revenue funding in 2012 will both progress and be opened in the same year. Even within that one local authority—this has been the case in other authorities—two similar projects can have hugely different speeds of progress. As I set out in our written submission, in part that was because one of the projects involved a listed building and a decision to move a primary school on to the site.

10:15

In some respects, I applaud the local authority thinking that is going on. For example, the decision to site a primary school alongside the secondary school will mean that the primary school can share the sports facilities and dining hall. In the long run, that will save money and benefit both the local authority and the school. That sort of asset planning causes delay, which can be frustrating both for us and for the local authority, but it is better to do that and then to work within the planning framework to get the project through as quickly as possible after having done the consultation on moving the primary school and after working out what to do with the listed building.

There is a balance to be struck between the two competing priorities of speed and ensuring that we build the right thing. It is better that we are sitting here explaining our ambitions for the programme than that we have to come back in two or three years' time to explain why somewhere we have built the wrong thing that is not being used to its fullest extent.

The Convener: I know, but that is not the point that I am trying to make. If you say that you will deliver £500 million of investment in one year but you deliver only £400 million, questions will be asked, whereas if you say that you will deliver £300 million but you deliver £400 million, that will look like a tremendous success, although the same amount will have been delivered. The point that I am trying to emphasise is about why your projections are so overambitious, given all the complexities that we clearly see in the individual projects.

Every year, you will come in for criticism or the Scottish Government will come in for criticism in debates in the chamber. That is what I am trying to pin down. Every year, there seems to be overambition about what will happen, but it then turns out that projects are not delivered. We know that the projects will be delivered, but they are not delivered in the year that you said they would be delivered. The Finance Committee is looking for greater accuracy in the projections.

I have another point to make before I open up the discussion to colleagues. When will we have the figures on what was delivered in 2012-13? The draft budget for 2012-13 suggested that £353 million would be delivered in that year, whereas the draft budget a year later suggested that £20 million would be delivered. When will we know what has actually been delivered in financial year 2012-13?

Barry White: We know that, between the NHT and NPD, in excess of £30 million of additionality was delivered in that year. What I do not have with me today is the split between NPD and the national housing trust, but I can submit that to the committee in writing if that would be helpful.

The Convener: That would be fine, thanks.

I hope that you understand the point, which I have now made two or three times, about the overambition in the projected timescales for delivery, given all the issues and complexities and difficulties involved. Surely it would be better for SFT if you were somewhat more cautious in your projections for delivery in a given year.

Barry White: I understand the point that you make—

The Convener: That does not mean that you should not be ambitious in pushing things forward on the ground, but you should be a bit more cautious in what you tell us and the Scottish Government. To the layperson, it looks like the projects are not being delivered as they should be.

Barry White: Let me make two quick points before I pass the question on to Peter Reekie.

The result of the ambition that we have shown is seen, once the projects get into procurement, in the time to financial close: 17 months for the Inverness College project, 21 months for the Glasgow College project, and a target of something like 24 months for the M8 project. The historical norm for such a project is something like 35 months. By being ambitious and by driving hard, we are pushing people to outperform historical norms.

One of the great dangers of opting for the much safer approach is in setting the timetable. For instance, if we had set a timetable of two and a half years for the Inverness College procurement, it would still be just finishing its procurement now rather than being built. Our ambition drives people hard and fast to outperform against the historical norms, so there is also a benefit to ambition, and the reaction from industry is positive.

A *Partnerships Bulletin* conference was held in Edinburgh recently, and the managing director of one of the investment companies, Carillion, compared the M8 procurement in Scotland with hospital procurement in England. Carillion was a losing bidder on the M8, so it was unsuccessful, but its representative said that every deadline was met, it knew what was happening and the process was run very well. When it bid for the hospital project in England, the process drifted and it actually spent more on the bid budget because of that. By working with public bodies, by setting the ambition and by ensuring that the resources are right for projects, we are achieving significant success in the procurement phase, and are outperforming historical norms.

Peter Reekie (Scottish Futures Trust): That is the point. It would be entirely possible for us to project a set of target dates by which we think things can happen, and then make a below-the-line risk adjustment, if you like, to say that that might not happen, and we could reduce it by 25 per cent. However, that would not be helpful for all the people who are trying to drive those projects forward on the ground, or for the bidding community, who want to know the actual dates that we are targeting and what is going to happen in the project.

If we were to make a below-the-line adjustment, you would still see the dates that we are driving towards, and those dates would still not be met in all cases, but by setting targets that everyone is working to, activity is delivered sooner than it would have been if we had set slack targets based on historic norms, as Barry White said. What we are really trying to do is deliver the right project in as rapid a timescale as possible, consistent with going through all the processes. We could plan for the worst-case planning and worst-case land acquisition in every single case, but history shows us that, when such worst cases do not occur, we do not claw back as much time as we have clawed back when we have set ambitious targets.

The Convener: There is a balance to be struck. As Gavin Brown said in his press release yesterday:

> "We previously knew that things were moving far more slowly than trumpeted, but today we learn that a mere four projects out of 49 are under construction ... This failing is harming our economy too, especially given how much the construction sector has suffered in recent years. If the Scottish Government could get moving on these projects, it would create thousands of extra building jobs in Scotland."

How do you respond to that, seeing that he is here and that the story is probably in today's papers?

Barry White: Everything that we do in additionality—the national housing trust, tax increment financing and NPD—is all about expanding investment in the economy. There are other bits of Government activity, through the regulatory asset base, surplus asset sales and transfer of revenue budget to capital, that as a whole are all making a massive impact by allowing investment to continue. It is part of a cohesive effort within the Scottish Government family.

Jobs were mentioned in the introductory remarks. Housing is one of the best ways to help in relation to skills and jobs, and through directly sourced affordable housing and the knock-on effects of that, the national housing trust is having a significant positive impact on jobs. The trade bodies in the construction industry, such as the Scottish Building Federation through its "Scottish Construction Monitor", have now started to talk about a potential skills shortage, so it has been a tough time for the construction industry throughout the recession, and the shortage of bank finance has not helped private development. We are now seeing a pick-up in the construction industry, and NPD, the NHT and tax increment financing are a significant part of that.

The Convener: So you do not think that it is a failing that is harming our economy.

Barry White: I think that everything that we do in additionality is helping our economy.

Peter Reekie: The impact of the projects on the economy of Scotland spans a much greater time period than simply the construction period. The cost of constructing a physical asset is possibly 10 or 20 per cent of the cost in terms of maintenance and the activities that happen within it over its lifetime. The most important thing for the economy of Scotland is to get the right project and for it to be used well and to deliver the right services—or the economic benefits of the correct road layout and so on—over its lifetime. That is what the economy needs most of all.

The shorter-run impact on jobs during the construction phase, as Barry White said, is being delivered through additionality over the whole life of the asset, to a marginally different timescale than was originally envisaged.

The Convener: I think that we might dispute the use of the word "marginally" at some point. I ask colleagues to come in now.

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): I am sure that Gavin Brown is delighted that someone is reading his press releases.

I want to pick up on the timescale issue that the convener mentioned. In the summary of the very helpful SFT submission, you state:

"most projects have now passed the 'Outline Business Case' or 'Initial Approval' stage at which Audit Scotland recognise programme certainty to be good enough to track movement against",

which meant that there was

"greater certainty around the construction profile."

In section 4 of the submission, you talk about that a little more. You say:

"At the time of the 13/14 draft budget, only 38% of projects by value had passed the Initial Approval stage",

and that now 84 per cent of projects by value are past that stage, giving

"increased certainty of timetable."

That sounds very impressive but without really knowing what that means on a practical level, it is hard to assess whether it actually is impressive. Can you tell us what that means on a practical level and why that increases certainty of timetable?

Barry White: I will give an initial answer; Peter Reekie may jump in, too.

The movement from 38 per cent to 84 per cent is about taking projects out of that initial development stage. The initial approval stage that we talk about is also called the outline business case stage; it is the stage at which a health board in effect signs off the project for the first time—it takes the project to the Scottish Government for approval through a committee that looks at all capital investment. At that stage, there is normally sufficient information to say, "This is the timetable for that project and this is the budget for that project."

When Audit Scotland has audited Scottish Government capital programmes and local authority capital programmes, the initial approval or outline business case stage is the bit that it normally uses as one of its datum points to establish whether the project is on budget and on time.

The second stage that Audit Scotland uses is the final business case stage, which is normally just before construction starts. The initial approval is just before procurement starts and the final business case—or final approval—is just before construction starts. Having 84 per cent of the projects in that category means that bodies are committed to an approval and to a timetable that they are now working to.

When we publish our earlier pipeline, we are working with much less certain information. This goes back to the quotation from the construction procurement review. It is better to publish a pipeline and accept that things may well change than not to put the information out there.

In updating the capital profile, we are now working with a much greater degree of certainty.

Peter Reekie: On the timescales, the outline business case stage—when it is generally reckoned that there is a good degree of certainty of delivery to measure against—can happen weeks or a couple of months before a project is put to the market as a procurement.

The industry needs a lot more forward knowledge of an upcoming project than that in order to plan its business properly. If we were overly concerned about ensuring certainty before we published the information, we would say nothing about the timing of a project, or indeed its likely cost, until the outline business case stage—the initial approval—when that certainty is generally recognised to be at a good level.

Our judgment is that the importance of giving transparency to industry and others about the fact that the project is coming outweighs the higher degree of uncertainty in providing that information early on.

10:30

Jamie Hepburn: Okay. That is quite helpful.

I seem to recall when you appeared before the committee previously, you made a point that I think one of us asked you about. I will ask you about it again. In your conclusion, you say:

> "The NPD programme is one of the largest of its type in Europe".

That sounds highly impressive, but can you put that statement into context for us?

Barry White: There is European information available on the number of contracts that are signed in any year and their value at financial close. The average across Europe is something like £30 per person per annum. Over the next three years in Scotland, we will be going at a rate of around five times that level. In other words, the Scottish rate will be around four to five times the European average. When France had a similar programme of major investment, its financial close figure averaged about £90 per person per annum. That is where the comparison comes from.

The NPD programme is a major investment programme that is allowing important projects to progress whenever capital is short. That is the big underlying point—that is why France adopted such a programme, and it is why the Netherlands is pursuing a significant programme, albeit one that is not of quite the same scale on a per head basis. The aim is to offset the shortage of capital and to allow important projects to progress.

Jamie Hepburn: Do you have a table that illustrates that graphically?

Barry White: We could do a brief summary of that and send it to the committee, if that would be helpful.

Jamie Hepburn: I think that it would be. Hopefully, it will back up the point that you made in your submission and in your response to my question.

You have also talked about the jobs that can be created through the process of construction and procurement, and about the high-quality jobs that are created at both stages. I picked up your comment that that was not necessarily quantifiable. Why is that the case? Are you attempting to quantify how many jobs are being supported through the process of procurement and construction?

Barry White: I will explain the point that I was making. If, for example, a project such as the M8 was a capital project, the Government would be paying out of its capital budget for the large team of designers who work up the final designs to allow construction to start. In an NPD project, the private sector pays for that and then recoups the cost at financial close. The private sector funds that out of its own resources and the Government does not start paying for the project until it has been built and opened.

My point is that, in addition to the construction work that is done on site, which we have put into the capital profile, a significant amount of design work is being done right across the project that would normally be funded from the capital budget, but which in the example that we are considering is not being funded in that way. We have not quantified that in the sense of putting a number on it, but design costs are a sizeable element of the overall project cost.

Peter Reekie: I can give an example that illustrates why the timing is so critical to the figures.

The Forres/Woodside/Tain health centres bundle has been included in the programme at a cost of £13.6 million. About 7 per cent of that value lies in the design costs, which would have been incurred in the year prior to financial close. That project closed in the first week of April of this financial year, which means that 98 per cent of its value in our pipeline is in this financial year.

If you had showed up at the site in Tain during March, you would have seen people on the site doing pre-works that were related to the project. It would be pretty complicated for us to allocate the individual value of the people on the site prior to financial close, so we use that date as the starting point for our estimate. If you turned up at the offices of Keppie Design or Halliday Fraser Munro during the year prior to that start on site, you would have seen people busy in their jobs, designing those buildings in Scotland.

Jamie Hepburn: My point is that, if you can see them, you can count them. Is there an attempt to quantify the number of jobs? We are talking about value, and I understand why that is important, but I am also interested to find out the number of people who are being supported in employment through NPD projects. Has there been an attempt to do that? I would have thought that there would have been.

Barry White: There is an attempt, at a global level and using standard Government metrics, to say that every £100 million-worth of work supports a certain number of jobs. Peter Reekie's point is that things are happening outwith our capital profile that are generating jobs and economic activity. We could attempt to put a global figure on that, but it would be a high-level estimate—it could never be precise. All we could do is say that 5 per cent of a project would be spent before financial close.

Jamie Hepburn: We are not looking for their names and national insurance numbers, but a high-level estimate would probably be okay. If you do not have that now, it would be helpful if the committee could be provided with that later.

Peter Reekie: We can easily provide that.

Jamie Hepburn: My last question is the most important one, certainly from my perspective. Can you tell us about the "education (schools - phase 3)" project? Is it still on time? I am asking whether the new Greenfaulds high school building in my constituency will be on time.

Barry White: I cannot say that I know the precise details on Greenfaulds high school, although I know that it and Clyde Valley high school are joined together in one project, which is in active procurement right now. Clyde Valley high school was known about for a couple of years before Greenfaulds was added, and they are now very much advancing together. The economies of scale that that arrangement gives us are a very welcome value-for-money addition.

I would be happy to get back to you regarding the specific timetable for Greenfaulds.

Jean Urquhart (Highlands and Islands) (Ind): I want to follow up on a topic that I broached the last time you were before the committee, regarding procurement. On page 4 of the document that you have provided, there is a reference to the Forres/Woodside/Tain bundle. The document says:

"55 individual work package opportunities and 85% by value of the work has been awarded to Scottish SMEs."

Are we now considering breaking some of the contracts down into smaller packages? Is that the inference? Is that what is actually happening? I am sure that at some point every member of the committee has been lobbied by small contractors who tell us that they find the procurement process really difficult. Is it getting easier ahead of the Procurement Reform (Scotland) Bill? Is that relevant to change, or is it the same old same old?

Barry White: That bundle is a really good example of good practice. There will be a number of works packages within the construction contract, involving ground works, the block work for the walls, a foundations package and a steel erection package. A huge set of key performance indicators sits around those packages, through the hub procurement route that the Forres/Woodside/Tain bundle was procured through, to ensure that small and medium-sized enterprises have a fair chance of bidding for them.

We are highlighting the outcome of that approach. Within that project, the intention has been honoured: not only have SMEs been given the opportunity to price the works packages, which is the first commitment; in this case, a very high percentage of packages have been awarded to them, too. That is a good example of good practice in advance of the Procurement Reform (Scotland) Bill, and the bill will be able to build on it.

Jean Urquhart: That is a good example, but such projects are happening everywhere. Has some particular practice there allowed a reasonably high percentage of opportunities to go to small and medium-sized enterprises? Is there a favourable comparison with other bundles or groups of work? We do not seem to have anything to compare that example with, so did you highlight it in the paper because it is exceptional? Are we moving more towards that approach? Is the issue generally accepted as one that needs to be dealt with?

Barry White: It is generally accepted as an issue to be dealt with, and that is why in the hub procurement route there are key performance indicators on the percentage of opportunities that are offered to SMEs. We have also done studies of some of the conventionally procured schools in Scotland's schools of the future programme. I would be very happy to submit to the committee studies on two of the conventionally procured schools—sadly, I do not have them with me today.

There is a huge emphasis across the public sector—whether in the hub programme or elsewhere—to try to ensure that SMEs are given those opportunities. The work is not being given to them on a plate—nor should it be—but certainly we should make sure that they have those opportunities.

As part of the bidding process, the partners that we work with on the hub programme gave very significant commitments about what they would offer SMEs. An advantage that we have with a procurement route such as the hub programme is that it is a long-term, on-going partnership, in which giving opportunities to SMEs is a key element. That is the case across the hub programme.

In the work that was done in Glasgow with Glasgow College, packages such as the mechanical and electrical packages are going to Forth Electrical Services, which is a company that has grown up in Scotland but which I think is too big now to qualify as an SME. In larger projects such as the Glasgow College project, work packages will go to bigger companies because of the scale of the project. Through the bigger companies, work will trickle down to SMEs for some of the specialist elements. In Glasgow, we are seeing a real commitment to local jobs and local training.

Peter Reekie will speak about some of the commitments that are being made.

Peter Reekie: To complete the point about SMEs, the main contractors, at the top of the supply chain, are giving commitments through the hub programme and our NPD projects to build capacity in the SMEs that are located around the project, helping help them to tender for work packages on the project. We have not seen that to the same extent before. Rather than an SME just showing up cold and having to compete with everyone for the project, the main contractor is looking for and spending time with the local supply chain, to help SMEs not only tender for work but, for example, meet the health and safety requirements that are inherent in large projects with the big contractors.

In our submission, the box on the Glasgow College project shows that the main contractor has promised a significant amount of time—500 hours—of capacity building to help SMEs bid for work on its own project.

The Glasgow College procurement team was very keen to see its own students in construction and related skills benefit from the project. That kind of thing is not seen just in the college. There are contractual commitments to community benefits, training places, jobs and graduate places, over not just the construction phase but the 25-year maintenance phase of the contract. For example, there will be a minimum of 40 new apprenticeships and a significant number of jobs for new entrants on that project.

Those benefits are driven by two things. One is the high-level public sector attention that is put on such projects, which is absolutely right; and the second is the skill and dedication of the individual champion in every project team.

In the NPD programme, we have asked one person in the procuring team to be the community benefits champion. In a competition, there is nothing like hearing someone on the evaluation team whom you are trying to please always saying, “This is really important to us. You must deliver.” It is not just about the high-level policy setting but about individual procurement teams—the Glasgow example is a really good one—banging on to their tenderers all the time that the project will make a difference. I think that that is what has delivered such a high level of commitment from the contractor in the Glasgow College project.

10:45

Jean Urquhart: On another point, you said that the Inverness College project took 17 months, as compared with an average of 35 months for such projects. Should we assume that the barriers that we talked about earlier were not there for that project? Are there lessons to be learned from that project? Was it an ambition realised? In the context of the timescales that we have been talking about, what made that project so good and will we see other projects like it?

Barry White: A number of things helped the Inverness College project to be completed so quickly. It was a very fast process, given the project’s complexity. It was about the simplification that we brought to the NPD process—by simplification I mean that we stripped out soft services and a lot of complexity. We did that partly for speed reasons, but it was mainly to let the users have a lot more flexibility in how they used the building, so there is also a big public service benefit.

We agreed to second somebody to the Inverness College project team, so the Scottish Futures Trust had a secondee working as part of the team who had been through a similar process before. We set an ambitious timeline for the team and worked with them to support them through that timeline. The project preparation was good, the college had a strong project director—a key leader is always important in such projects—and the process was simplified. Jeff Jackson is the chief executive of Equitex, which was part of the winning consortium, and he made some very positive comments about how that streamlining process saved both time and money, and compared favourably with the rest of the UK, which I agree with.

It was about leadership, simplicity and getting the right resources behind the leader.

Gavin Brown (Lothian) (Con): As part of the budget, the Scottish Government produced a table of the most up-to-date estimated capital profile for the NPD pipeline. That came out fairly early in September. Is it still the most up-to-date profile, or have there been changes to it in the past two months?

Barry White: We have not updated the profile since August, so it is the most up-to-date profile. We generally update it once a year. The number of variables against each project is very significant. Throughout the year we update the pipeline that sets out when we expect projects to reach financial close, so interim updates are in the pipeline document rather than in the capital profile.

Gavin Brown: The convener asked earlier about the change to what was predicted for 2013-14. When you spoke to the committee last year, you said that it was going to be £338 million but, according to the most up-to-date profile, it is going to be £185 million. The convener asked you how much of that change was down to delay and how much was down to lower costing, because those are the two reasons given in the budget document. Your response referred to the example of a school in Lanarkshire, for which it was difficult to give a neat split because the reduction was partly down to saving money and partly down to delay. Putting that example to one side, is it possible for you to give to the committee—when you have time to do it—information about how much of the change from £338 million to £185 million is down to things just taking longer than anticipated and how much of it is genuinely down to cost savings? I do not expect that information now, but would you be able to furnish the committee with it, even though there might be one or two exceptions?

Barry White: We can certainly give the committee more information on that. There are some ambiguities around that, and I have given you the particular example of the school, but we can give you a broader indication of the split between the two. There might be some assumptions in that, for the reasons that I have highlighted, but we can certainly do that.

Gavin Brown: Thank you.

The convener also asked about the outturn for 2012-13. The most recent prediction that we had was £20 million, but we do not have the outturn and, again, you said that you would give us that. To clarify, does that figure exist yet, so that you will be able to give it to us fairly quickly, or will it take a few months for the outturn to be official? Is it available now?

Barry White: We should be able to give you that information quickly. The figure that I have with me today is the combined figure for additionality, which is the national housing trust and NPD together, but I do not have the split of that with me today.

Gavin Brown: I have one more question seeking clarification. Page 1 of your submission says:

> "Financial close has been achieved on £267m of projects with more than £600m anticipated by the end of this financial year."

Just for clarification, will it be £600 million or will it be £600 million plus £267 million by the end of this financial year?

Barry White: The £267 million and the £600 million are separate, so an additional £600 million-worth of projects or thereby is moving towards financial close between now and March.

Gavin Brown: I just wanted to check that the £267 million is not included.

The end of the fairly large paragraph on page 2 of your submission ends with the words:

> "with some projects still in early development some risk of further movement remains."

Could you expand on that slightly, with specific reference to the latest prediction for 2013-14, which is £185 million, and the latest projection for 2014-15, which is £809 million? Can you just expand on the comment that

> "some risk of further movement remains"?

What do you think will happen to the £185 million and £809 million? Are they best-case, central or conservative scenarios? How would you describe them and what sort of movement might we see?

Barry White: Our paper sets out an anticipated rate of progress, but if something unexpected should happen, progress could slow. We do not know whether that would have a big impact on the figure for 2014-15 because the projects that are not yet in development are more likely to be impacted during the following year rather than the immediate next year.

Gavin Brown: Although nothing is guaranteed, what percentage of that £185 million is more or less guaranteed to happen within this financial year?

Barry White: The paper sets out that 84 per cent of projects are at a higher degree of certainty. It also shows that we are seeking financing from international sources. There have been all sorts of changes in the international banking markets with regulations to make banks safer. We anticipate a range of projects reaching financial close next July, for example. We are confident that the financing will be fully available, but it would be unwise for us to say that we can predict with any certainty what position the financial markets will be in by July next year. There is a degree of caution in these things because we do not have all the variables under our control. We need to exercise a degree of caution, but we will work with local authorities—in the case of the schools that we have just highlighted—to push those projects through and to achieve financing at that time. However, we rely on the financial markets as well. We have been very successful to date, and that is why we are confident that we will achieve that financing. We are achieving financing at competitive costs and getting a high degree of financing interest in projects. I think that Peter Reekie can confirm that we had four different financing options for Glasgow College.

Peter Reekie: We did.

Barry White: We had investment from pension funds and banks, and the European Investment Bank came in, which helped the value for money immensely.

Overall, therefore, we are confident that projects can be pushed forward, but they involve variables.

Gavin Brown: We are almost halfway through the financial year, so how much of the £185 million for 2013-14 has happened on the ground in the first half of the financial year?

Peter Reekie: I do not have that figure to hand. However, the timing of the financial closes is such that, for example, the spend for the M8 bundle project, which is very large and for which the spend accelerates rapidly, is towards the end of the financial year, so it has not happened yet. The level of activity continues to ramp up quickly, but quite a lot remains to be done. How many weeks and months of construction activity on the M8 would be included in this financial year, which ends at the end of March, is very sensitive.

Gavin Brown: It is fair enough that you do not have the figures now, but is it possible to tell the committee roughly what has happened in the first half of the financial year and what is expected for the second half?

Peter Reekie: Yes.

Gavin Brown: Okay. There are currently four projects under construction. Again, without anything being guaranteed, how many projects do you anticipate being under construction by the end of the financial year?

Barry White: That is set out in our pipeline document, which is attached to the paper that we submitted. The pipeline document has information on construction start dates, which, in effect, are immediately after the financial close for many projects. All that information is set out in the pipeline document.

Gavin Brown: Okay. What do you think the number will roughly be?

Barry White: I do not actually have a number. The detail is in the table in the document, but I am happy to summarise that, if you want me to.

Gavin Brown: Will you summarise that now, or will you send us a summary?

Barry White: I will send you a summary, if that will be helpful. We thought that we would provide all the information in the pipeline document project by project, school by school and health centre by health centre. However, we can certainly add all that up.

Gavin Brown: If that can be easily done, that will be fine. Thank you.

John Mason (Glasgow Shettleston) (SNP): You said that the Lochgilphead and Inverurie projects are being bundled together. They are obviously not physically adjacent, so can you explain what bundling together means? Does it refer just to the financial side?

Barry White: The simple answer is, in effect, yes. What it really means in practice, though, is that one loan was taken out for both projects rather than separate loans for each and that one operator will support both projects and maintain the buildings. However, the buildings themselves are separate and will have health service staff in them. The only private sector element will be the maintenance staff who will look after the buildings. Bundling the projects together means that the financing cost or financeability and the overhead cost or financial transaction cost of getting a deal done are spread across both projects, which makes them much more cost effective.

John Mason: I understand the financial side; in a sense, it does not matter where different projects are if they are made into one big project. Are there different constructors for the two projects?

11:00

Barry White: It is entirely possible that they could be different; I am not sure whether they are in that case. Even with bundling, it is still possible that each building could be built by a different main contractor. Equally, the same contractor may build both, because most contractors have a geographic spread that would cover both areas.

John Mason: Although quite a lot of the work will be local, a local builder in Argyll would—to go back to Jean Urquhart's point—to some extent be disadvantaged if an Aberdeenshire builder had to be used for the project.

Barry White: The majority of the work will always be done by local subcontractors. The vast majority of the physical work on the ground—the works packages that we discussed earlier—will be done by local contractors.

John Mason: Right. Would that be true for the maintenance too? You said that the same company would be used.

Barry White: The maintenance providers that we see cover all the Highlands, so they will have a mixed workforce of specialists who may well come from Inverness or Aberdeen for specialist work such as lift maintenance, but they will also have local maintenance people on the ground, and they will use local contractors for particular tasks.

John Mason: So, in fact, most of that would not vary depending on whether the two projects were built separately or in a bundle.

Barry White: No, it would not change enormously either way.

John Mason: The emphasis is therefore really on the financing side—that is where the big difference is.

Barry White: It is on the financing side: on the transaction cost of getting the project to financial close and up and running.

John Mason: Thank you—that is helpful.

At the risk of going over the same ground, I will go back to some of the figures. In the draft budget for 2012-13, the figure of £353 million has been revised to £20 million. Am I right in saying that those are the capital expenditures that are going out in those years, and that they are not related directly to what the public purse is paying, as that will happen in the longer term?

Barry White: That is correct. The first payment for Aberdeen health village, which will open later this year, will be made after it opens. The payment from the Government starts once construction is complete.

John Mason: That obviously impacts on the budget of the health board, because it thought that it was going to pay the first amount—which might be £10 million or whatever—in 2014-15, but that has been pushed back a year. Is the practical impact of those slippages that the first payment from an individual local authority or health board will be made later?

Barry White: The Aberdeen health village project is opening pretty much in line with when the health board expected it to when it did its initial and final approvals. The payment that it has to make is scheduled pretty much at the time that it would have expected to make it. It will have budgeted from about two years ago in the expectation that the first payment would be made this Christmas or early next year. It will also get support from central Government. In effect, the capital cost element of the project will be given to it by central Government—as is the case for all the NPD projects that are going through—and the health board will then pick up some of the costs that it would have had anyway, such as maintenance. The cost of the project is split between the health board's budget and a degree of central support.

John Mason: Is the central support spread over the life of the project or does it comes on day 1?

Barry White: It is spread over the life of the project.

John Mason: So the first part of that central support is also delayed by a year if the project slips by a year.

Barry White: If the project takes longer in preparation and moves back the way, the first payment will also move back. For budgeting purposes, people would know when they did the initial approval or produced an outline business case what the likely date of opening would be. Once we have the initial approval, the budgeted date for the first payment to be made becomes much more concrete. That links back to what we were saying earlier about the greater certainty of the timetable once projects go past the initial approval stage.

John Mason: Yes, but does the £353 million figure, which is moving to £20 million, refer to projects that are before or after the initial approval stage or a mixture of the two?

Barry White: It is a mix. When we did the previous profile in the summer of 2012, 37 percent of projects had passed the initial approval stage. We have shifted up from having 37 per cent of projects in the procurement stage to having 84 per cent of projects in the development stage post-initial approval.

The Government's budgeting will need to be based on the business cases that have been signed off. If we take the City of Glasgow College project as an example, it has a staggered opening. Peter Reekie might know the exact business case date, but that will probably have been about two years ago, give or take. For the past two years, there has been a planned opening date for the college project. That has now become the anticipated opening date. In terms of how Audit Scotland looks at a project, the college project is on budget and time for both its initial and final approval, and that means—

John Mason: The dates have been known for the past two years.

Barry White: Yes, for the City of Glasgow College project.

John Mason: Let us stick to that project, because it is a good enough example. Anyone budgeting—whether that is the college or the Government—should have known for the past two years when they would have to make cash payments.

Barry White: Yes. In terms of Government budgeting, as projects move though the initial approval stage, that is when people begin to say that they must start to ensure that cash is available. That might be in 2016, or even 2017 because some of the roads jobs are quite a way ahead yet, but that provision must be made in future budgets.

John Mason: I take the earlier point that if a building that will last for 30 years opens and then closes one year later than planned, that is not a big problem in the scheme of things. I am trying to make the point that such a situation has an impact on this or next year's budget, because the cash being paid for that first year after opening is changing and, from what we have heard, presumably reducing, and that money can be used for other things. My fear is that every time there is slippage, although we might end up with a better project, a problem is caused in the short-term budgeting for central Government and the local authority or the health board.

Peter Reekie: You referred to the short term. Barry White's point is that that is a little bit further out that one might imagine. Our average procurement time is just under two years. The outline business case or the initial approval, which is when we get a great deal more certainty over timescales, is done before the procurement starts. At the point at which there is more certainty there are, in round terms, two years in the procurement stage for a major project and two or three years of construction before payments need to begin at the start of operations. We have a good deal of certainty over the end date, which is perhaps four or five years out from when the budget implication hits. That is a pretty long planning period for any organisation, not least the central Scottish budget, to get its budgets lined up. There is a good period of much increased certainty before the revenue budget implication of paying the unitary charges for projects kicks in.

John Mason: In practice, the accountant in the health board or local authority is probably quite happy if the payment is delayed for a year because that is how accountants look at things, I suppose.

I return to the convener's first point. It seems to be being said that there is a maximum spend figure in a particular year. I wonder whether there is a need to say what the maximum figure is, and also to say that there is a 10 per cent risk that the figure could become X and a 20 per cent risk that the figure could become Y, and to have more of a spread, instead of what seem to be definite figures. I accept the point that if you are going to Cruden Homes, for example, you will want to give it targets on a specific project, but do you not think that we need to paint an overall picture based more on risk analysis?

Barry White: We could certainly look at doing more risk analysis around that. Our point is that as projects move into procurement, they increase in certainty. From that point of view, there is much greater certainty about the figures today than there was in summer 2012. However, you are right—it is not a case of 100 per cent certainty.

Michael McMahon (Uddingston and Bellshill) (Lab): We have been hearing a lot about comparisons between the different types of PFI projects. The normal comparison is between the NPD form of PFI and the PPP form of PFI, but I want to explore the difference between the original types of NPD and the current way that you do NPD. When was the first NPD project in Scotland? Was it about 2004 or 2005?

Barry White: I cannot remember the specific date but it was during that era. Certainly Argyll and Bute was the pilot project.

Michael McMahon: When you use NPD, do you compare it with that pilot project to show what has improved in how you deliver NPD now?

Barry White: We have not done a direct comparison. I happened to work actively on the Argyll and Bute pilot project so I know a lot about the original thinking behind it and I think that it was a very good pilot. There have been significant changes since then. For instance, in the Argyll and Bute project and in some of the other NPD early projects—or non-profit-distributing organisation projects, as they were called then—the surpluses were given to charity rather than rebated back to the public body. The projects had to use a charity with a public ethos set-up. We are now able to rebate back to the public body, which means that there is a direct benefit—that is a major improvement.

However, we have always said that within NPD some of the benefits, such as having a public interest director, for example, are still exactly the same: the original NPDO pilot had a public interest director. There was also a stakeholder director in the earlier projects—we do not need that post now because the charity element is disappearing.

The biggest change that we have made is with regard to simplification, which I touched on earlier. We have changed the risk profile—the insurance risks—and stripped out the services. Those changes have now largely been replicated in the United Kingdom Government's change to PF2 when it moved away from PFI. A lot of those changes were made by stripping out soft services and changing some of the risk profile.

If we compare current projects with the NPDO project in Argyll and Bute, significant changes have been made—I have highlighted some of the biggest ones. We learned a lot from that pilot and my knowledge of it has been incredibly useful.

Michael McMahon: I think that something else is changing and I am looking for clarification on it. You mentioned the Clyde Valley high school project earlier. My understanding was that the project was originally part of North Lanarkshire Council's programme of school building—a programme that had already built about 25 or 26 schools. Is it also the case that when those original schools were built, the split between the Government resource input and that of local authorities was 80:20 and under this project, the split is 50:50? Is that correct?

Barry White: The last round of PFI/PPP had an 80:20 split in it. In many cases, the local authorities did more and topped it up a little bit so the balance shifted away from 80:20. For example, local authorities may have added on extra facilities or the projects may have gone over budget and the Government did not give them any more funding so local authorities had to find that from their own resources. It is a mixed bag out there, but the principle was an 80:20 split and that was absolutely right.

The principle behind the current funding arrangements for secondary schools is a two-thirds to one-third split. Central Government is picking up two thirds of the cost and local government is picking up one third of the cost. As regards Clyde Valley high school, a primary school is part of the site but it is not funded from the programme, so the overall split of cost on that project will not necessarily be two thirds to one third because of all the facilities that North Lanarkshire is putting into the project. However, the principle—for a school building that is being built as a stand-alone building—is that the split should be in the region of two thirds to one third.

Michael McMahon: Okay. Again, that is helpful. When you are producing the figures for a project in its totality to put into the budget, do they include the local authority's share or do they just include the Scottish Government's input into that project?

Barry White: When we put the project into our budget, the capital profile that we put in is based on the Government element of it rather than the total cost. In terms of a prudent way to look at things, we could argue that that unlocks local authority investment as well, but we do not; we simply say that the Government element of a project is two thirds and that is what we count in the capital profile.

11:15

Michael McMahon: Is there any local authority input into the M8 bundle project, for example?

Barry White: I know that there are local authority contributions to the AWPR, but I will ask Peter Reekie to say something about the M8.

Peter Reekie: The unitary charge and capital costs of the M8 project are completely met by Scottish Government funding through Transport Scotland, but there are plenty of other examples of the NPD programme and our revenue funding having leveraged in funding from other organisations. Members can scan around and look at press articles on the value of the City of Glasgow College project, for example. We have that down as £193 million, because that is the value of NPD funding for that project. The construction value of the project is around £228 million, as the college is using some of its reserves to fund elements of work and the funding council is putting in additional funds. The £193 million of NPD funding that is counted as that in our pipeline document and the figures that are in front of members has therefore turned into £228 million of construction activity on the ground. All those things bring additionality to the total economy, but they are not highlighted in the way that the figures are presented.

Michael McMahon: I am thinking of the investment in local health projects that has been announced in Lanarkshire over the past wee while. Some of the business cases have been signed off. Many of those projects were originally signed off—as the M8 bundle was—by Tavish Scott when he was transport minister in 2006. The M8 project is still not officially under way. I know that the tendering process is virtually complete, but the building of the road has not yet started at a time after which it was supposed to have been completed.

NHS Lanarkshire has recently announced some projects. The original programme under "A Picture of Health" included those primary care projects and it was signed off in 2006. The timescale was that those projects would be started and completed before now, but their business cases are being signed off only now. What caused that slippage?

Barry White: There are two answers to that question.

I cannot speak in detail on behalf of NHS Lanarkshire about its specific movements from 2006 until now but, at a higher level, the big picture from 2008-09 onwards has been a shortage of capital, which has led, in the way that I described earlier, to the Scottish Government transferring revenue to capital, the regulatory asset base, NPD, NHT and TIF, and looking at all the different means of bringing in additional investment.

The simple answer to the question is a shortage of capital, but I really do not know whether there were other factors in health and social care planning together or in some of the thinking being revisited. I was not in the public sector in 2006, so I do not know the background of those projects then.

With the shortage of capital, I suppose that it is a simple fact that the NHS Lanarkshire bundle, as we call it—there are a number of projects—would probably have to wait many years before capital became available. The NPD money allows work to go ahead very shortly. That is because of the NPD funding. That is the positive that comes out of that.

Michael McMahon: Except that it was announced in 2007 that both the Wishaw centre and the Hunter health centre in East Kilbride would be delayed. That was before capital investment dried up with the credit crunch.

Barry White: I would hate to be seen to be washing my hands of the issue, but I was not in the public sector in 2007 either, so I cannot be certain. I cannot answer for the decisions that were made then, but I know that the NHS Lanarkshire bundle is making good progress through procurement and we are keen to get it to financial close as quickly as possible and get the health centres built. It is one of the projects that we are seeking to move forward as quickly as possible.

You are right that the M8 project is at an advanced stage of procurement. There is a lot happening to get that project to financial close. I am sure that you and I will both be delighted when it reaches financial close and starts to be built.

Michael McMahon: That is one thing that we all agree on.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): The discussion has been interesting, so I thank the witnesses for that. More or less everything that I wanted to ask has been asked, but I have two questions. The deputy convener helpfully moved the discussion on to annual charges, which is the key issue from the point of view of present and future finance. One issue that the public might be interested in is what estimate you make of the savings that the most up-to-date NPD models make relative to, shall we say, the most up-to-date and comparable PPP models, which would be Scottish PPP rather than the English PFI model. It might be difficult or impossible to answer that, but I think that the public would be interested in the issue.

My other question is on future finances. The cabinet secretary and the Government have a 5 per cent cap on revenue payments, although I understand that that does not include local authority payments. What implications does that have for the future of the NPD programme? Will the programme have to slow down or will you be able to develop and expand at the current rate within that constraint?

Barry White: I will start on that and Peter Reekie might join in. First, it is difficult to separate out a counterfactual or to give a reference point to say exactly what the difference is between old PFI and NPD, because we have changed so much in addition to capping the profits. The fact that there is a fixed return rather than unbridled profit is a major feature that people tend to focus on. However, we have always maintained that, equally, the bigger changes that we have made beneath the surface drive value for money. The flexibility that the public sector gets and the community use, which was talked about last night at the cross-party group on sport, are incredibly valuable. So it is difficult to do an exact analysis.

To give an example, having a public interest director on the board of a company helps the ratings agencies to give a project a more positive overall rating, which can help the financing cost of the project. That is a by-product of NPD rather than something that we directly factored in, but it is a useful by-product. The belief is that, when a public interest director is on the board, the contract will operate in a more professional way and will be more focused on delivering for the public service. That openness and transparency should lead to better problem solving between the public and private sectors.

There is a series of factors and, unfortunately, it is difficult to isolate one of them and base a comparison on it. Across the programme, the different types of financing that are on offer and the financing that we are achieving compare favourably with other approaches, but I never look at value for money in isolation. Actually, the construction costs that we are getting compare favourably, too. As a whole, value for money is strong.

I ask Peter Reekie whether he wants to add anything.

Peter Reekie: Yes. Mr Chisholm asked about the future NPD programme and the pipeline. We are working on a known pipeline, which is set out in the document that we provided to you, and we cannot give any comments or observations on anything beyond that. It is for ministers and the Scottish Government to talk about that. However, as Barry White said, the value of individual financings is strong. The cost of finance is improved not just by the NPD points that Barry talked about but by the overall simplification. Financiers see projects in which the risks that they are exposed to are about the construction and maintenance of a building, which they can understand a lot better than, for example, providing cleaning or janitorial services.

Overall, financiers see our projects as less risky. In general, where the projects are rated, they have higher ratings, which drive a lower cost of finance. We see that in the amount of competition that there is from different financiers, as Barry White said, and from different financial structures. There is not just one way of doing these things any more; a lot of different financiers and institutions are offering us finance at a good cost and we are taking advantage of that across the programme.

Barry White: One point that I am pretty certain was mentioned the last time that we were at the committee is that the 5 per cent cap includes the regulatory asset base, historic PFI/PPP, the NPD programme and borrowing powers. I think that the last time that we were at the committee, somebody made the point that it is a control total and is not necessarily a target. It is a management tool, and it is useful. At UK level, a similar control total has been introduced, but I think that it was first introduced in Scotland in 2010. It is a useful control total, but sitting beneath it there is an affordability point about what we can afford to do within the 5 per cent. Peter Reekie is right that it is for ministers to make decisions on the balance between things such as a future NPD programme, borrowing powers and the regulatory asset base. As members will imagine, we would not wish to second-guess ministers' intentions.

The Convener: That appears to have exhausted questions from the committee. Do you wish to say anything further before we wind up the session?

Barry White: I thank members for their questions. We will respond to the various points that require written answers as quickly as possible.

The Convener: It was good to see you again. Thank you for answering our questions.

We will have a five-minute suspension to give members a break and to allow the witnesses to leave.

11:26

Meeting suspended.

11:33

On resuming—

Land and Buildings Transaction Tax (Implementation)

The Convener: As we are all finally here, our next item of business is to take evidence on implementation of the land and buildings transaction tax from Eleanor Emberson of revenue Scotland and John King of Registers of Scotland. I welcome our witnesses and thank them for their patience; the earlier session ran on longer than we had anticipated it would. I invite one of you to make a brief opening statement.

Eleanor Emberson (Scottish Government): We do not have an opening statement. As promised, I wrote a letter to you at the beginning of the month to update the committee on where we are. We have nothing to add to that, so we are happy to respond to your questions on it.

The Convener: After keeping you waiting for so long, I am mischievous enough to say that we have no questions, given that you are not going to give us a statement. However, I will kick off with one or two questions and we will see how things progress—I am sure that there will be a mad rush from colleagues.

First of all—he says, trying to regain his thoughts—we mentioned in our report that the resource plans for revenue Scotland are still at a fairly early stage, but revenue Scotland believes that it has made adequate allowance in its plans for what it calls compliance activity. Can you update us on that, for the record? Although the letter covers some of the issues, it is important for the Finance Committee that those points are highlighted in the *Official Report*. Can you talk about that matter for a wee minute?

Eleanor Emberson: Sorry, just so that I know what question I am answering, do you want to understand what we are doing about compliance?

The Convener: Yes.

Eleanor Emberson: Many things might come under the heading of compliance. Basic things include ensuring that payments come in as they should. There are also activities to check that people have not done anything improper—whether deliberately or accidentally—in the way that they have self-assessed for the tax. Checking is also done to ensure that nothing has been omitted, so data sets are reviewed to understand what is going on.

We are working through all that and deciding what the boundaries should be between what Registers of Scotland will do and what revenue Scotland will do. Given that Registers of Scotland will do the front-line collection of the tax and obviously has a lot of experience in the property market because of the nature of what it does, there are certain things on which we can bring its experience to bear that will help us with analysis of transactions, and identify transactions in which there might be queries and so on.

There will be other activities, for example, if there were any need to pursue bad debts or analyse data sets, where it is less obvious that they would naturally fall to Registers of Scotland, so revenue Scotland will take on such responsibilities.

"Compliance" is quite a broad term. A number of strands of work are going on. In some of that work—I know that it is of interest to the committee—we are looking at which things are done by Registers of Scotland and which are done by revenue Scotland.

John King (Registers of Scotland): I echo what Eleanor Emberson has said. We have always viewed Registers of Scotland as having a fairly light-touch role in terms of compliance. We have always envisaged that our information and data-sharing role would help revenue Scotland. We see ourselves having a more direct role around the margins when, for instance, a tax return has been submitted late, so that it has failed in terms of compliance to meet a legislative requirement and there may therefore be a need to issue some kind of notice—it could be a penalty notice, for instance.

HM Revenue and Customs's view is that things at that end of the compliance spectrum tend to be automated and tend to be part of the collection system. That tends to work conveniently for both the tax authority and the customer. A lot of our thinking is around those more de minimis elements of compliance.

The Convener: The ideas of a helpdesk and guidance were covered quite extensively in our report. A lot of witnesses said to us that when you phone up the HMRC for help and advice, you do not get it. There is concern about ensuring that the appropriate staff are trained and that the public know what number to contact. Where are we in relation to providing a one-stop shop, if you like, which would be preferable to a two-stop shop, for delivery of information and advice on the LBTT?

Eleanor Emberson: I will let John King speak about the helpdesk, because we envisage that the main helpdesk provision will be through Registers of Scotland, which already has a helpdesk, on which it can build, for property transactions. You also mentioned guidance. Those are different facets of the same issue. It is about putting good information out there to ensure that as many questions are answered as easily as possible, so that people do not even need to contact a helpdesk because the answers are all there. However, we must also ensure that there is good helpdesk provision for any questions that people have.

Revenue Scotland will obviously take the lead on the guidance. We have made a start on it, but the committee will understand that we cannot finalise it or get everything in place because some aspects will depend on not only the Land and Buildings Transaction Tax (Scotland) Act 2013 but the forthcoming revenue Scotland and tax powers bill, which has yet to come before Parliament and the committee. Once that bill is being considered, we will push on with producing guidance on various aspects. We expect to make that easily available, so people would be able to go online or to get access through their solicitor or accountant if they are taking advice from their agent on the tax. Then, if they still have questions, they will be able to contact the helpdesk. John King will speak about that.

John King: We have set up a stakeholder group within the LBTT project at the Registers of Scotland. The group has two main functions; one is to provide advice to us on what guidance the profession will need, both in writing and through access to a helpdesk, and the other is to help us with the build and development of the system.

As the committee will be aware, Parliament has passed the Land Registration etc (Scotland) Act 2012, which we anticipate will come into effect late next year. We have already identified a need to expand our helpdesk to ensure a smooth transition from the old system of land registration to the new system, and we will also use that helpdesk as the basis for the future needs for the LBTT. We have done a significant amount of work, both with our stakeholders and with HMRC, to identify issues that may arise and on when the need for access to the helpdesk may arise, and to validate some of our initial assumptions around staffing for a helpdesk. We feel that our initial assumptions remain valid.

We take heart from the positive fact that the LBTT act is a lot simpler to understand from a customer perspective than the current stamp duty land tax legislation. That should also reduce the need for access to guidance and to a helpdesk, but we are aware that people will still want a helpdesk.

Historically, when Registers of Scotland has implemented new legislation, we have always issued guidance and done a lot of active one-to-one stakeholder engagement. What that engagement tells us is that although the guidance has value, people still want access to a helpdesk, so that is very much at the forefront of our thinking. As Eleanor Emberson said, our assumption is that, because of the linkage with land registration, inquiries will come through the ROS helpdesk.

Our intention is that the helpdesk will answer as many questions as possible up front. We recognise that there will be some more complex matters that would still fall to Registers of Scotland to answer, and which would be referred to a second-line system of support. We also recognise that there will infrequently be especially complex tax policy matters that may have to be referred to colleagues at revenue Scotland.

The Convener: You touched on registration. At present, in terms of registration, payment of SDLT is not required, but under LBTT it will be required. Given that concerns about that are raised in the report, where are we with addressing it?

Eleanor Emberson: I am tremendously sorry, but I am not sure that I understand the question.

The Convener: There is concern about the payment of registration for LBTT relative to SDLT. For example, Pinsent Masons said that the requirement was

"unnecessarily restrictive. We are not aware that the SDLT approach results in material loss of revenue ... and we would respectfully request that the approach be reconsidered."

Has further consideration been give to when payment for registration is to be made? I am sorry for not being clearer about that.

Eleanor Emberson: I am aware of the issue. The requirement is that the keeper of the registers of Scotland is satisfied that there is a payment arrangement in place rather than that the cash has transferred.

John King: We are certainly aware of the comments that were made to the committee by the Law Society of Scotland, as well as by Pinsent Masons, about the concept of "arrangements satisfactory for payment". The Law Society was keen to enter into dialogue with Registers of Scotland and revenue Scotland about what that would mean in practice, and we have a stakeholder meeting this coming Friday at which the issue will be on the agenda. I would be happy to report to the committee after that meeting what the outcome is, although we do not anticipate any particular difficulties. Our approach has been to make a range of payment options available to support the concept of "arrangements satisfactory for payment". That does not mean that the tax has to be paid at the time when the tax return is submitted; it just means that satisfactory arrangements have to be in place for the payment, which could mean an arrangement for subsequent payment of the tax.

11:45

The Convener: I have one final question before I open up the session to other committee members. As far as the transitional arrangements are concerned, how are negotiations on costs going with HMRC?

Eleanor Emberson: They are still under way. I do not have a figure to give you. A lot of careful thought has been given to what the best solution is at HMRC's end in relation to information technology and its normal systems development. We are in regular conversation with HMRC about all that. It is obviously a matter of great concern to us, on which we are still working closely with HMRC.

The Convener: Do we have any idea of when those discussions will be concluded?

Eleanor Emberson: I do not think that I can give you a date, but there will be a timetable associated with HMRC having to undertake the work at its end to ensure that UK SDLT is disapplied in Scotland from April 2015, so we need to agree the cost in good time to allow HMRC to undertake the necessary work. We are alert to that. The issue is not yet pressing.

The Convener: What do you mean by "good time"?

Eleanor Emberson: By that, I mean that sufficient time should be provided to ensure that HMRC can deliver what it needs to do.

The Convener: How long is that? Do you think that we are talking about three months, six months or nine months?

Eleanor Emberson: HMRC has to tell me how long it takes to do the IT work at its end. I hope that we would know by the time that we next give the committee an update, because I imagine that HMRC would be wanting to get to work, but that is my speculation—HMRC has not given me a date.

The Convener: That is of some concern, but I hope that we will hear more in the not-too-distant future.

I open up the session to colleagues. The first member to ask questions will be the deputy convener.

John Mason: One of the points that I want to raise is about the timeline that you gave us. One of the headings under "Transition Arrangements" is "Agreement with HMRC". If I am reading the timeline correctly, that started at some point in July and will continue until January or February, so we should be halfway through the process. Is that where we are? Are we halfway through?

Eleanor Emberson: I am not sure how we would measure how far through such a discussion we are in percentage terms. HMRC has made some proposals, which we have commented on, and it has gone away to do some further work. I will know that the process has been concluded when a figure has been reached that everyone is satisfied with, but we are not there yet.

John Mason: The "Agreement with HMRC" was targeted to be reached by February. The timeline is divided into quarters, so it looks to me as if February is the target date.

Eleanor Emberson: Roughly, I think that agreement will be reached at around the time that I will be due to give the committee another update, which will be in six months' time, I guess.

John Mason: Okay.

The "Stakeholders and Comms" section of the timeline is split into two bits: "Develop initial comms and engagement", which I think is due to be complete by now; and "Ongoing engagement with stakeholders". I do not know whether there is a distinct line between the two. Has the initial stage been completed?

Eleanor Emberson: Yes, I would say so. You have already heard from John King about the stakeholder group that Registers of Scotland has set up. There is a group that is involved in consideration not only of the land and buildings transaction tax but of the landfill tax, which we call the devolved tax collaborative. It brings together a range of professional bodies, representatives of firms and groups with an interest. It is now well established—it has met three times—and we will continue to work with it right through to April 2015 and beyond on how those taxes should operate.

A series of seven roadshows on LBTT for the conveyancing profession has been held around the country with the Law Society of Scotland, so there has been initial, wide engagement with the conveyancing profession. I think that we can say that we have made an effort to get to the main stakeholders at least once and, in some cases, many times, and we will carry on doing that up to going live and beyond.

John Mason: I have to confess that I struggled to get beneath some of the wording of your letter to the meaning. One bit that jumped out at me is in the final paragraph under "Respective Roles of RoS and RS", on page 2. It says:

> "It is important that Revenue Scotland and Registers of Scotland take the time to work through the process mapping in detail before reaching a final agreement on the split of responsibilities under live running if we are to ensure a fully joined-up service to taxpayers and their agents."

I understand the reference to

"a fully joined-up service to taxpayers and their agents",

but all the rest sounds like quite a long process. Does something need to happen or is that all just words?

Eleanor Emberson: I apologise for the wording. I realise that terms such as "process mapping" seem rather like jargon, but I was attempting to convey that we must work through what will happen at each stage when someone is due to pay the tax. There are many scenarios: the transaction could be residential or commercial; there could be questions or no questions; and there could be a dispute or no dispute.

We must work through what will happen at every step in the process, such as contact with members of staff at Registers of Scotland or revenue Scotland and having to work with an online system to make a payment or register a transaction. We must work through every little detailed bit of how the service would operate and unpick whether each bit would be best done by Registers of Scotland or revenue Scotland.

I was attempting to convey that we are coming at that by looking at what a taxpayer or their agent would have to do and who should do which bit with them, rather than by saying, "Registers of Scotland's got the online system and revenue Scotland's got disputes—away you go and develop those things completely independently."

John Mason: That helps me to understand a bit better what is being done.

I presume that you can say that the process mapping will be complete on a certain date.

Eleanor Emberson: Indeed.

John Mason: At that stage, will you allocate the responsibilities?

Eleanor Emberson: Yes.

John Mason: That is where we are heading.

Eleanor Emberson: That is where we are heading, but you will understand that the absolutely final split will occur relatively late in the process. Another big bill has to go through the Parliament, and it will set the framework, penalties, powers, duties and other aspects. We cannot be absolutely sure until the final legislation is in place, but we are already developing a pretty good understanding of who is likely to do what.

John King might want to add something.

John King: I do not have a lot to add. The process is lengthy and useful. I emphasise that we are involving our external customers in it by asking what is practical and what they expect, because there will be an impact on them. A lot of people are involved in this fruitful exercise.

In practical terms, we have by and large completed the process mapping for key aspects of the tax implications from a residential transaction, and we are beginning the process of working our way through a commercial transaction. As Eleanor Emberson said, we will have other legislation to consider. That will have to feed into the work that we have done.

John Mason: That is helpful.

Under the heading "Registers of Scotland progress", on page 3 of the letter, there is a reference to

"a 5 point scoring matrix"

on which some things are assessed as green and some are assessed as green/amber. The letter says:

"The review team concluded that the project was progressing well and that 'successful delivery appears probable'".

That concerned me slightly, because I hoped that the whole thing would be slightly more than probable. I take the point that, of the seven issues that were to be looked at, some have been addressed. Will you expand on that?

John King: The scoring uses the standard Scottish Government programme and project management centre of expertise format. As the letter explains, the range includes a green assessment, which we would ideally hope to get but did not expect at this stage in the project—that would have been unusual, given the project's scale, the number of issues that must be considered and some of the uncertainties that remain, such as the revenue Scotland and tax powers bill. We were delighted that the assessment was green/amber.

Five of the review team's seven recommendations have been put in place. Recommendations are scored as "Critical", which means immediate consideration, "Essential" or "Recommended". The two critical recommendations were essentially related to internal documentation within Registers of Scotland. There were suggestions for some improvements, and those recommendations have been implemented.

Three other recommendations have been implemented, and the two recommendations that remain outstanding are ones that the team that carried out the review accepted could not be tackled at this moment in time, although the team wanted to flag them up as areas of importance for the coming six months.

John Mason: So those are not necessarily things that the team thought you should have done already; some of them are things that you should be doing in future.

John King: Yes. The team concluded that the project was good, that it was running well and that it should deliver successfully. We have a number of recommendations that will, we hope, make it an even better project. We have implemented five of them, and the remaining two are recommendations that we will need to pursue with revenue Scotland. They relate to future system build, so they are not things that we could action now anyway.

Gavin Brown: You have said that you were "delighted" with an assessment of green/amber". What was your expectation?

John King: My expectation was green/amber. As the responsible owner for the project within Registers of Scotland, I was looking for the independent review to provide some form of assurance that my interpretation and take on the project was valid. It concluded that we are where we would expect to be with the project and that there are no major unidentified issues or particular risks for the project.

The review considered the structure and the governance supporting the project; it considered key areas such as our involvement with stakeholders; and it considered the IT delivery side. I was looking for anything that was amiss with those areas. The review team responded, "No, things are progressing well."

Gavin Brown: You have mentioned IT, so let us come on to that. During stage 1 scrutiny of the Land and Buildings Transaction Tax (Scotland) Bill, I asked a number of questions about the IT budget for Registers of Scotland. According to the financial memorandum for that bill, it was £75,000. Somebody from Registers of Scotland—it might have been you—said that there was another category that was not described as IT, but it was explained to me that the bulk of that other category of about £250,000 was related to IT. That takes us up to about £325,000. Is that budget still realistic? Is it on track? Have there been any changes?

John King: No—it is still a realistic budget. We monitor spend on a monthly basis, and we carry out a more thorough review every quarter. Over the past six months that review has considered the outcome of the LBTT legislation to see whether any of our key assumptions for IT build and development have changed to any significant extent. We are content that the budget is an accurate assessment of what we think the build costs will be.

Gavin Brown: I have a question about the chart that Mr Mason has referred to. The top line of the timeline relates to IT. At the far right is a bar for "Final testing". Can you explain that? If one reads too much into the chart, it suggests that final testing will be continuing up until April 2015, having begun a good six months before that. Can you give us assurances that most of the final testing will be done well in advance of April 2015, although there might be some tinkering right at the end? Can you explain a little bit about how that IT testing will work?

John King: That allows for a period of roughly four or five months from the point at which we will have taken delivery of the system. We will provide a degree of public access to the system, so that the public have some familiarisation with it before LBTT commences in April 2015. Because of the on-going work with stakeholders, we are not anticipating that there will be anything major when we take delivery of the system in autumn next year.

It is IT best practice to road test a system, and we have the benefit of time to road test the system. If there are minor issues that we can change quickly, we will do that. We do not anticipate uncovering anything major at the final testing stage, as we will have done a lot of formal in-house testing involving stakeholders and, in advance of that, there will have been a final familiarisation phase.

12:00

Gavin Brown: Okay—thank you.

On the left-hand side of that entry on the same line there is information on the "Data framework agreement", which looks like it should have been finished between July and October—perhaps in August or September. Has that task been completed?

John King: Yes. The work encapsulated a number of things, and it was undertaken jointly with revenue Scotland. It predominantly did the work, with ROS input. Certainly, that part of the project has been completed.

Gavin Brown: I have two other questions, one of which is on the gateway review, which John Mason asked a number of questions about.

I am struggling to understand how you tie up the graph, which is the bottom entry, with the narrative. I have probably just missed something, but the narrative states that the gateway review began in August, whereas the graph shows something described as "GR" beginning at the start of 2013, with the follow-up reviews happening about now. What is "GR"? Is it different from what happened in August?

Eleanor Emberson: Yes. It was a gateway review of the overarching programme rather than simply of the project. The gateway reviews for the project are not reflected on the graph.

Gavin Brown: Okay. The answer to my final question might be no, which would be fine. You said in the letter that, on the further policy work on sub-sale relief, there have been two stakeholder meetings, things are progressing and that advice will be provided to the cabinet secretary by the end of this year.

Are you in a position to elaborate on that work and say where you think it is headed? If not, is it because the information is not available or because you are not allowed to say at this stage? I am not trying to get you to say anything that you are not allowed to say, but I just wonder what more can be said about it.

Eleanor Emberson: All that I can really tell you is that there have now been three meetings and that another one is scheduled to happen shortly. I do not think that it would be appropriate to speculate. The group will report and the committee will be informed at the relevant time.

Gavin Brown: Fair enough. Thank you.

Jamie Hepburn: I am pretty sure that Gavin Brown was trying to get you to say something there.

Gavin Brown: I promise I was not. [*Laughter*.]

Jamie Hepburn: Gavin Brown has covered a lot of the ground that I hoped to cover, such as the IT systems and sub-sale relief. However, a lot of working groups have been formed and we know that revenue Scotland and Registers of Scotland will share responsibility in relation to the land and buildings transaction tax, and that the Scottish Environment Protection Agency will have a role to play on the landfill tax. A lot will be down to relationships in the transitional phase, in which HMRC will also be involved. Are the relationships good? Are people getting on with one another? Are they working well together?

Eleanor Emberson: Absolutely, from my point of view. The personal relationships work fine, but we have formal structures as well. We have the usual kind of programme management structures and there is a good programme board, with external representation on it; for instance, we have a local authority finance director, who brings expertise from having to set up and collect local taxes such as the council tax. We therefore have some good external challenge and a range of people involved. If we were to have any disputes or disagreements—mercifully, we have not had any so far—we would have arrangements to deal with them in a sensible way.

Jamie Hepburn: Do you have any observations on the dynamic between the organisations, Mr King?

John King: I agree whole-heartedly with what Eleanor Emberson just said. The ROS team has a very effective working relationship with the revenue Scotland team. We have also had some positive dialogue with HMRC. On the joined-up front, everything is probably working better than one would have anticipated, given that we are dealing with a very large organisation south of the border and a new organisation here. It is all going very well indeed.

Jamie Hepburn: That is reassuring.

Jean Urquhart: It has just occurred to me to ask you about where people will work going forward. Is there an opportunity for job dispersal in Scotland?

Eleanor Emberson: John King would be able to answer on the ROS teams for the land and buildings transaction tax, but there will be an amount of crossover because some people will not work entirely on tax but will also have responsibilities for other matters, which will constrain their location.

Revenue Scotland will be a relatively small body. We currently envisage it having around 30 staff at the point of going live, which will obviously be for not just the land and buildings transaction tax but the landfill tax. Our current plan is to place the body in Victoria Quay in Edinburgh, where there is spare capacity in a Government building, in the interest of trying to use the Government estate efficiently. The issue of dispersal could be looked at in the future, although I suggest that the issue would be where the body would be located rather than whether the team would be dispersed, because it is not very big.

The Convener: I have a final question. Will revenue Scotland and Registers of Scotland have a role in forecasting future Scottish tax revenues?

Eleanor Emberson: We will have a role to provide data that will underpin forecasts, but we will not carry out the forecasting. Registers of Scotland has details of property transactions that I am sure will be highly relevant to any forecasts, and when revenue Scotland is up and running it will have data about levels of tax receipts and so on. All of that will be used to underpin forecasts, but we do not expect to be in charge of delivering forecasts.

The Convener: That is very helpful.

I thank you both very much for answering our questions. Again, I am sorry for keeping you waiting for so long. I thank committee members for their work today in asking questions, and I look forward to seeing them in Arbroath on Sunday and Monday.

Meeting closed at 12:06.

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