



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

FINANCE COMMITTEE

Wednesday 6 August 2014

Wednesday 6 August 2014

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	4565
LANDFILL TAX (SCOTLAND) ACT 2014	4566

FINANCE COMMITTEE
22nd Meeting 2014, Session 4

CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

DEPUTY CONVENER

*John Mason (Glasgow Shettleston) (SNP)

COMMITTEE MEMBERS

*Gavin Brown (Lothian) (Con)

*Malcolm Chisholm (Edinburgh Northern and Leith) (Lab)

*Jamie Hepburn (Cumbernauld and Kilsyth) (SNP)

Michael McMahon (Uddingston and Bellshill) (Lab)

*Jean Urquhart (Highlands and Islands) (Ind)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Lloyd Austin (RSPB Scotland)

Professor Jim Baird (Chartered Institution of Wastes Management)

Willie Beattie (Scottish Landfill Communities Fund Forum)

Stephen Freeland (Scottish Environmental Services Association)

Mary McLuskey (Community Resources Network Scotland)

Jenny Schwarz (Scottish Wildlife Trust)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Finance Committee

Wednesday 6 August 2014

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

Decision on Taking Business in Private

The Convener (Kenneth Gibson): Good morning and welcome to the 22nd meeting in 2014 of the Finance Committee of the Scottish Parliament. I welcome everyone back after our recess and remind all present to turn off mobile phones and other electronic devices. We have received apologies from Michael McMahon.

Agenda item 1 is a decision on whether to take items 3 and 4 in private. Are members agreed?

Members indicated agreement.

Landfill Tax (Scotland) Act 2014

10:00

The Convener: Agenda item 2 is a round-table evidence-taking session with Lloyd Austin from RSPB Scotland; Professor Jim Baird from Glasgow Caledonian University; Willie Beattie from the Scottish landfill communities fund forum; Stephen Freeland from the Scottish Environmental Services Association; Mary McLuskey from the Community Resources Network Scotland; and Jenny Schwarz from the Scottish Wildlife Trust. The purpose of the session is to inform the committee's consideration of draft subordinate legislation relating to the Landfill Tax (Scotland) Act 2014 as contained in the Government's recent consultation, which also included questions on proposals relating to the Scottish landfill communities fund.

There are 12 of us for this round-table session, and what I really want is a free-flowing discussion on issues arising from the 2014 act and our deliberations on the subordinate legislation. However, before I get Mary McLuskey to kick us off, I should let everyone know that I will not take people in any order; anyone who wants to speak should simply let me know by, for example, putting up their hand. After Mary has spoken, people might want to comment on a completely different aspect, comment on Mary's remarks or make their own comments.

I want to start off with an issue that a number of people probably have a view on and on which the committee had a lot of discussion and deliberation: the eligibility for funding of projects within 10 miles of a landfill site or waste transfer station. In its submission, CRNS said that it would like

"the radius"

to be

"applied flexibly ... with a diminishing level of funding for those on the periphery"

and suggested that

"a 25 mile radius would be appropriate."

I am sure that we will all have a view on that.

I ask Mary McLuskey to kick us off on that subject, and then I will take people as I see them. Incidentally, people can contribute as often or as infrequently as they like; it is not a Buggins's turn-type session. In fact, John Mason has already made it clear that he wants to come in.

Over to you, Mary.

Mary McLuskey (Community Resources Network Scotland): CRNS is very supportive of community projects being able to access funds.

The 10-mile radius rule has been applied flexibly in the past; we would want that to continue, but our emphasis and focus are on ensuring that funding is directed at community projects that are actively seeking to reduce landfill. We seek flexibility in the application of the 10-mile radius and the definition of “waste transfer”, with an emphasis on ensuring that projects that can demonstrate that they are reducing landfill are given priority in funding. As I have suggested, the flexibility that has previously been applied would continue to be applied.

The 25 miles that we have suggested is a notional figure. After all, we are all aware of Scotland’s shape, size and geography and how difficult it is simply to put a dot on a map. Our focus is not on mileage per se but on the quality of projects and their ability to make an impact on the environment by reducing landfill and keeping resources in the local community.

John Mason (Glasgow Shettleston) (SNP): I do not know exactly what Michael McMahon, who is not here today, would say on this matter, but I know that he is committed to the idea of the local community benefiting from this funding. Given my context in Glasgow, I just feel that 10 miles is enormous. There is a landfill site at the edge of my constituency, which is also at the edge of the city—it is at Daldowie, near the crematorium. Ten miles covers the whole of Glasgow, but I do not accept that the whole of Glasgow suffers because of that landfill site—I would say that the local community is suffering. What do the witnesses think about that?

Mary McLuskey: That is why we focus on the impact that community organisations make and on the criteria. We look at what the organisations actually do and how they would reduce landfill. I accept completely that, in a city centre, a 10-mile radius is huge but, out in the rural environment, a much more flexible approach is required. The flexibility would be to reduce or extend the radius. We focus on the impact of the projects and their ability to do something much more positive.

Lloyd Austin (RSPB Scotland): Mary McCluskey’s follow-up has covered what I was going to say. The key thing is that the proposed regulations use the phrase “in the vicinity of”, and the guidance will explain how that should be interpreted. We support that approach, because the principle is that the fund should address disamenities due to landfill. The key thing is the flexibility to apply different approaches in different circumstances. John Mason’s comment about city centres is absolutely true. In the central belt, the flexibility should be different from that in a rural area. The key thing will be to encourage the Government, when it produces the guidance on how the rule should be applied, to explain what

flexibility should be applied and how it should be applied.

The convener mentioned that the 10km will apply from a landfill site or transfer station. We agree with the idea of expanding the scheme to apply to transfer stations where there is disamenity from them. However, the draft regulations still refer only to landfill sites, so there is a need to ensure that the regulations extend to that new area that is being spoken about.

The Convener: Just for accuracy, I point out that we are talking about miles rather than kilometres. We have not moved on to the metric scale as yet on this issue.

Jean Urquhart (Highlands and Islands) (Ind): There is still a bit of unravelling to do. In a rural area such as the one that I represent, 10 miles is nothing, given the distance that landfill material will travel and the potential distance from a landfill site to a social enterprise or other organisation that is working to the kind of remit that we might like of reducing landfill material. It seems to me that there are two things to be done. When we looked at some of the awards that were made in the past, we found that the projects were not necessarily about reducing landfill, although they certainly were about improving the environment for people who live next to a landfill site. That is still relevant. Perhaps we should not declare a distance at all and instead be much clearer about the specific criteria for applying to the fund.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): On the Scottish landfill communities fund, I was interested in the remark from the Scottish Environmental Services Association, which is critical of the proposal to abolish Entrust and to split responsibility between the Scottish landfill communities fund and the Scottish Environment Protection Agency. I am interested in hearing more about that. Perhaps the convener wants to take more comments about the distance issue, but I just thought that, since we are dealing with the fund, we should also deal with that aspect.

The Convener: I am happy to bring in Stephen Freeland as and when he wishes.

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): Continuing on the fund, from my perspective, given that we know that the measure is flexible, I think that the 10-mile radius is about right. It is interesting that a number of witnesses, including the Scottish Wildlife Trust, welcome the inclusion of waste transfer stations in the scheme. The trust states that it recognises that

“the communities and the natural environment around these facilities also suffer disamenity from transport of waste.”

The RSPB says something similar, as does CRNS. However, the Chartered Institution of Wastes Management says that there is

“no evidence ... for the disamenity of transfer stations”.

That is a contradiction, so I ask the witnesses to say a little more about the issue.

It was interesting that CRNS thought that recycling activity should be included. I should declare an interest, in that in Cumbernauld in my constituency there is a recycling facility that is essentially a de facto landfill site, given the amount of material that is constantly there. For someone who lives next to it, whether it is a recycling facility is probably a moot point. I would be interested in any comments or more evidence on that.

Jenny Schwarz (Scottish Wildlife Trust): I wanted to make another point on the distance issue. In the past there has always just been guidance, rather than a rule. It is important that we continue with that, so that there is flexibility for the distributors of the fund to make a call on what is appropriate for a given project.

I want to give an example of a city-centre project. We have received funding from the landfill communities fund for saving Scotland's red squirrels in the city of Aberdeen. The project activity is taking place within 10 miles of a landfill site. It is benefiting the whole of the city of Aberdeen to have a native species conserved within the city. The residents of the city can enjoy red squirrels returning to the city, and they also get the economic benefit from the tourism that red squirrels generate.

I reiterate that we need to maintain flexibility, particularly for biodiversity projects.

Stephen Freeland (Scottish Environmental Services Association): Before I answer Malcolm Chisholm's question, I point out that we have to be clear about the definition of a transfer station. I do not think that there is any legal definition of that. You will find that transfer station operations are quite often bolted on to another plant. If we are looking to include transfer stations, we have to be careful that we know exactly what we are talking about.

We are not entirely critical of the proposal to abolish Entrust; we are putting down a marker more than anything else. At the moment, we have one body registering, administering and regulating the system. Under the current proposals, we will split that into two bodies: a forum and SEPA. There is not enough detail in the consultation to give us any confidence that the system will be more efficient. However, perhaps others might be better qualified to comment on the specifics of that.

Willie Beattie (Scottish Landfill Communities Fund Forum): I wanted to comment on the 10-mile radius, but I also want to comment on that last point, if that is okay.

The Convener: Of course.

Willie Beattie: On the 10-mile radius, my organisation has always taken the view that waste causes disamenity not just at landfill but in its collection, processing and transportation. Our policy over all these years has been to apply some of our funds to areas where the waste is collected, but most of the funds apply within the 10-mile radius of the landfill site. That is a voluntary approach, but it has worked quite well and seems to have been pretty well received.

On the abolition of Entrust, Entrust costs the United Kingdom scheme about £1.5 million at present. That would translate to roughly £150,000 in Scotland, which could go into projects. Under the current arrangements, Entrust has to regulate not just distributive environmental bodies but environmental bodies—we are talking about in excess of 2,000 organisations. The Scottish proposals would be for something like six, seven or eight organisations that would require to be regulated by SEPA. Perhaps most important from our point of view, here we are almost 18 years into the scheme and I think that it is fair to say that the UK Government does not have a very clear picture of how successful or otherwise the scheme has been. I would hope that through the proposals that have been set out, from the get go the information flow in the proposed arrangements would allow the Scottish Government to know precisely how well the fund is performing in the future.

10:15

John Mason: Further to what Jenny Schwartz said, I am also a fan of red squirrels and I am sure that most people in Aberdeen like them. However, some of the people who are suffering from landfill activity live within 100m of a landfill site. Some of my constituents have a site across the road and at 6 o'clock in the morning there are huge lorries queueing up to get in. There is dust and dirt on the road all the time and their windows and cars are covered in it.

Do you accept that 10 miles is a huge radius and that, although we might want to help red squirrels, some of the money at least must go to help the people who are living right next to a site?

Jenny Schwarz: I definitely agree with that. It is important that the community fund can fund both those elements, as it has done so far. We should continue to have the flexibility to fund projects in the communities that directly suffer a huge disamenity from such sites, as well as projects in

the wider community to address transport issues, for example.

John Mason: Do you accept that there could be too much flexibility, in the sense that anything goes?

Jenny Schwarz: It has worked well to date, and there is guidance on the 10-mile radius. Some funders have increased the distance to 25 miles for certain biodiversity projects, but pretty much all the funders have kept within those guidelines. That is an appropriate degree of flexibility and I would support its continuation.

Mary McLuskey: The discussion about whether the distance is 10 miles, 25 miles or any notional number that we could set down skews the debate away from what we really want to do, which is to make an impact on those who are disproportionately affected by landfill sites and the transfer of waste to and from them.

Our submission highlights the idea that, when we are looking to fund projects, we should try to get the funds to those projects that attempt to reduce the amount of materials that go into landfill—by reducing, repairing and recycling, and so on—and look at how we can make better use of the communities around the affected areas. Whatever flexible radius we want to apply—whether it is 10 miles or 25 miles—it should be done on the basis of need so that we make a greater impact on what we are ultimately trying to do, which is to follow a zero-waste agenda.

On the comments regarding Entrust, we are strongly in favour of putting the moneys that would be saved by removing the regulation in question back into community-based projects to impact positively on the environment.

The research that we conducted in France on the polluter-pays model showed that, if a different approach was taken to raising and redistributing revenue, such a model could make a great impact on the Scottish environment and the way in which we fund community-based projects to reuse and therefore reduce the amount of landfill. The debate about the radius would potentially become moot over time.

Lloyd Austin: I want to comment further on the question of flexibility. Flexibility in the 10-mile rule is a good thing, but the guidance should set out clearly how it should be applied. Its application must be considered in the context of the various objectives of the schemes to which the funding should apply. Mary McLuskey mentioned the recycling objective, and there are also various amenity objectives. We are particularly interested in objective D, on biodiversity. Some objectives will focus more specifically on the immediate community, and some will focus on the wider

community and the ways in which everyone will benefit.

The way in which the funds are allocated to those objectives is one of the issues to which that flexibility should apply. It might be good for the Government to include in the guidance something about ensuring that each objective receives a good allocation of money. The allocation of money among the different objectives is, in a sense, part of the flexibility.

We are expressly keen on the biodiversity objective being maintained, because that is one of the few funding schemes that exist in which pure biodiversity conservation and improvement is a specific objective. We are particularly pleased to see that the Government has retained that.

Gavin Brown (Lothian) (Con): Like Malcolm Chisholm, I would certainly welcome further detail on the distribution system, and on whether Entrust should continue to have a regulatory role. I would welcome hearing about any benefits and potential risks that people think may arise if Entrust were to be removed from that role.

Mr Beattie said that Entrust costs approximately £150,000 out of the fund. If it were removed, I presume that there would still be some distribution and administration costs. Is it your view that things could be done cheaper than £150,000 by SEPA or somebody else? If so, what sort of costs are we talking about? I presume that the cost would not be nil, so all that money could not be spent on the fund. I would welcome further details on that matter, which would be helpful for the committee when we have to take a view.

The Convener: I will let Willie Beattie back in. Jenny Schwarz can then comment, as the Scottish Wildlife Trust's submission makes a number of points on that particular issue. I will then open up the discussion for anyone else who wants to come in.

Willie Beattie: It is proposed that members of the forum adopt a code of conduct that includes the production of a full set of audited accounts every year. There will be a limited number of organisations, so the burden on SEPA to regulate them would be much less than it is in the current system.

It is also proposed that there will be a cap of 10 per cent on administration costs. That is not the case currently; that is currently guidance. The costs to the distributive environmental bodies that are members of the forum would be met within that 10 per cent cap.

I think that SEPA has committed to providing a regulatory service on a cost-only basis. Therefore, although there are no figures around that, I think that a substantial saving would be inevitable.

Jenny Schwarz: I agree that many of the roles that Entrust carries out duplicate what the organisations that distribute and receive the funds already do. In any particular project, we provide the same information to the funder and to Entrust, so the same information is held in two places; there is duplication of effort.

We are audited annually by Entrust on a financial level and a governance level. We think that that is superfluous because we already have a general audit, as an organisation. Entrust should not have any role in governance issues; it has more a guidance role. As Willie Beattie said, its functions can be carried out easily and much more cheaply under the system that is proposed in the consultation paper.

Professor Jim Baird (Chartered Institution of Wastes Management): I think that everyone would accept that landfills are a disamenity and that there are issues and problems in communities such as those near Daldowie. I also think that everyone would agree that somehow localising the funding around those communities is the right way to go; that is largely how things have worked over the past 10 to 15 years of funding.

I have had the opportunity to serve on quite a few local panels from several environmental bodies that give out the funding. They have all developed a similar scoring system. If you are within 3 miles of a landfill, you get so many points, for example, and the points diminish the further away you are. Obviously, those that fall outside a certain distance are entirely ruled out of submitting an application in some cases; the panels broadly move towards somehow giving more money to communities that are very local to the landfills.

The panels often include quite a lot of local authority elected members, independent people like me, and organisations such as the Scottish Wildlife Trust. A discussion goes on and a balanced view is reached. Local authorities come to the table under pressure because funding, for example for parks in their areas, has been cut dramatically. They press for certain things to happen, so balancing goes on. Distributive bodies have done very well to work out a scheme that seems to work for communities. When we speak to communities, we hear that they seem to get it, and benefit from it.

There is a danger if, in the next round of discussions, we start to be overprescriptive about rules and regulations. For example, if we said that the radius around Daldowie was 3 miles, projects might emerge that are not really wanted and objectives might be constrained. You might find that you could not actually spend the money in that community. A fine balance is needed to get the flexibility around that to work, and I think that the scheme has done that.

Jamie Hepburn said that we made the point that there was no evidence around transfer stations, which I will pick up. I was not saying that there was no evidence. An example is Mavis Valley in East Dunbartonshire, which is a transfer station for waste that goes out to Greengairs. No one has any evidence to say that the vehicles cause a problem, yet there is plenty of evidence to say that in Greengairs there is a blight on the community, which is sitting right next to a landfill. That is clear, but, with regard to how we measure the number of vehicles and so on, there is no evidence to say that house prices have diminished as a consequence of that activity. I take what you are saying about there being no evidence, but if vehicles are coming in and out there is some disamenity, and therefore we should try to reflect that in the guidance.

The Convener: Thank you. I am going to move on, primarily because nobody else wants to contribute. I will move on to an issue which will probably be a no-brainer: the 10 per cent increase in funding for the first three years of operation compared to the current system, with the proposed new cap of 7.48 per cent. Willie Beattie's organisation has said:

"This is a welcome proposal at a time when the LCF has been effectively reduced in value to accommodate other government (UK) policies."

Do you have more to say on that?

Willie Beattie: Yes. I was referring to the fact that in the last budget, the Government reduced the diversion percentage for landfill tax credits, principally in order to address another policy that it wanted to implement. The concern among everybody was that if it could happen once, it may happen again. The increase was therefore seen as being very welcome, particularly because of that point of view, but also because of the fact that it would give the scheme some momentum in its early days as the Scottish landfill communities fund.

Mary McLuskey: I agree with Willie Beattie: a 10 per cent increase would be very welcome.

Going back to what Jenny Schwarz said, simplicity and transparency around the criteria and a reduction in duplication of effort would be very welcome. A lot of smaller organisations that I represent just do not have the resource to allow them to constantly to fill in forms, attend meetings, make telephone calls and so on to apply and re-apply to different bodies, using the same information over and over again. An increase in funding and a reduction in administration go hand in hand and would be very welcome.

Jenny Schwarz: I agree. As Mary McLuskey said, another point on the interest issue is that removal of that level of administration would make

it easier for smaller community groups and community groups that are closer to landfill sites to apply for funding. That is welcome.

As a fundraiser, I welcome an increase in available funding. The important point is that the 10 per cent increase offsets the fact that under the current scheme some of the credits that are collected in England are distributed in Scotland, so there could be an increase in the funding available under the scheme for projects in Scotland as the transition occurs. So, yes—we definitely welcome the 10 per cent increase.

10:30

The Convener: Thank you. I will move on to Stephen Freeland's paper, which is somewhat different from what we have been discussing so far. Stephen is here representing the Scottish Environmental Services Association, which is the sectoral trade association for Scotland's managers of waste and secondary resources. You expressed one or two concerns in your paper, on which I will ask you to expand. For example, you said about the third rate of tax:

"We are therefore concerned by references in the current consultation to the potential introduction of a third, intermediary rate of tax."

You go on to say that that

"is only likely to introduce an additional layer of complexity to what is generally a well understood system."

Can you talk specifically about that and your concerns regarding the price variation and so on?

Stephen Freeland: At the moment we have two tax rates: the standard rate and a lower rate. It was suggested in the consultation that there could be a third rate. It does not say to what material it would apply, but we assume that it refers to biostabilised material. It was raised in previous consultations that such material might benefit from a lower rate. The concern is that that might have implications for the economic case for other types of existing and planned infrastructure. For example, a lower landfill rate for biostabilised material would imply that after some sort of processing to remove the biodegradable content of the material you would be able to landfill at a cheaper rate, so that means of treatment would be being incentivised.

The main means of treating such material is a mechanical biological treatment process, which is basically a means of taking residual waste and removing its biodegradable content to produce a stabilised material at the back end. However, those facilities also produce a fuel in the form of refuse-derived fuel or solid recovered fuel—RDF and SRF—which can then be used in cement kilns or burned to create energy. By incentivising landfill of biostabilised material, those facilities are

potentially going to be reconfigured to produce a biostabilised material for landfill to benefit from the cheaper rate, but other processes for waste energy recovery are going to be affected.

At the moment, it is very much guesswork; we do not know what materials are to be covered by the scope of the lower rate, or when it might apply. We need to put down a marker that what is proposed has to be very carefully considered, otherwise other projects might be jeopardised.

The Convener: Thank you. I will let John Mason come back in, then back to Stephen Freeland.

John Mason: Obviously, there is in Stephen Freeland's paper some technical language, which I confess I am not altogether familiar with, particularly in paragraph 9, which refers to "fines". Can you clarify for us what those are and what the "Loss of Ignition ... test" means?

Stephen Freeland: That is a slightly different issue. It comes down to the current lower rates of tax for qualifying materials. The Landfill Tax (Qualifying Material) Order 2011 listed inert or inactive wastes that benefit from the lower rate of tax because there is less environmental harm from them when they are landfilled. The proposals in the current consultation are fine and duplicate more or less what is in the current UK system that we have all got to know over the years.

The glaring gap is when it comes down to "fines", which are the small particles or materials that are residues from a recycling process. After the material has been trundled around in a big screen to separate out the plastics and the paper, a residual amount of fine dust or material escapes out at the back end. When that fine material arrives at a landfill site, it is very hard to ascertain whether it is biodegradable and has come from biodegradable sources such as paper or from inert material; it is very hard to make that judgment call there and then.

HM Revenue and Customs is planning a more scientific approach to testing that material when it arrives on a landfill site, because some unscrupulous operators might be passing off material as qualifying for the lower rate of tax when it should qualify for the higher rate of tax.

John Mason: Does that happen a lot?

Stephen Freeland: There is a strong indication that that is happening.

The scientific process is called "loss on ignition". Essentially, the material goes back to a lab and is fired up. By working out how much of what you started off with has been burned off, it is possible to determine whether the content is biodegradable or largely inert. That process will give confidence that a landfill operator has complied with the

requirements under the regime, and that the material is being taxed at the appropriate rate.

HMRC is doing that work at the moment, and we are concerned that the consultation makes no reference to that. Most landfill operators want to have that level of confidence, so we are keen for the Scottish Government to adopt a similar scientific approach to fines.

The Convener: I was going to come back to you on that specific issue, but I will let Jim Baird in, after which we will hear from Jamie Hepburn.

Professor Baird: On the question about the possibility of there being three rates, as I said previously to the committee, the landfill tax is the one regulatory driver that everyone in the industry would accept has made a difference and changed our approach to recycling, recovery and so on. The important thing is that a marker is set down about the price that gives operators and those in the industry certainty on what the cost will be. If we start to slip in different arrangements, the danger will be that we will affect the economics of the waste infrastructure that might emerge.

HMRC is consulting on fines over the summer. It is developing a methodology to prevent organic fines from working their way into landfill and being classified as inert when they are not inert. At its simplest, the loss on ignition process says that if the material can be burned and it disappears, it is organic, not inert. All that we are saying to the Scottish Government in our consultation submission is that we want to mirror what England and Wales are doing at present; we should not deviate too much from that approach. We think that the Scottish Government should take on board the fines issue and follow what HMRC is doing.

Jamie Hepburn: In his submission, Stephen Freeland raised the slightly different issue of tax exemption for site remediation, which will arise when SEPA or a local authority has to clear up material that should have gone to landfill. He said:

"However, this should not simply provide a convenient alternative to exhausting all possible avenues to recovering tax from the illegal (or insolvent) operator in the first instance."

Willie Beattie made the same point in his submission, although he said that that would be unlikely. How serious is the concern about tax exemption for SEPA and local authorities being used as a convenient alternative to tax recovery?

Stephen Freeland: By and large, we support the proposed measure, which we think is welcome. The comment in the submission was just a marker to indicate that we should not take the easy option of just disposing of such material without worrying about the tax. It is true that, with an illegal operation, it is extremely hard to recover

the tax from the operator. By and large, we support the measure.

John Mason: I have a separate point on Mr Freeland's submission. In paragraph 2, you talk about "waste tourism". An issue that has been raised previously is the fact that, if Scotland had tax rates, or bands, that were different from those in England, waste would be moved around. Have any studies been done on sensitivity? If rates in Scotland were 1 per cent different, would that be ignored? Is there any rule of thumb in that area?

Stephen Freeland: I am not aware of any published studies. A report by Zero Waste Scotland accompanied the legislation, but I think that it considered the issue in the context of there being a UK rate and no Scottish rates. It did not quite address the sensitivities around there being slightly closer rates between the two regimes. However, my broad understanding is that something around the £10 mark is enough for the material to move to another area in the UK.

Waste tourism has been described by a lot of people, including probably at previous meetings of this committee. However, the issue of dewatering that is raised in the consultation, which we might deal with later today—

The Convener: I was going to ask about it next.

Stephen Freeland: It highlights the issue of waste tourism, so we can talk about that later, unless you want me to deal with it now.

The Convener: The RSPB has also mentioned dewatering, but I will let Jim Baird speak before we come on to it.

Professor Baird: Waste moves. It should be no surprise that it moves from the UK to continental Europe to be processed, and if it can move those distances, it can certainly move down to England. It is a sensitive issue. I do not know whether any studies have been done on it, but I know that waste moves and is therefore likely to find its way to the cheaper outlets.

The Convener: I will move on to dewatering. Paragraph 13 of Stephen Freeland's paper says:

"SESA strongly urges the Scottish Government to refrain from removing the existing provision which enables water to be discounted from taxable disposals ... The economic impact of this proposal on Scottish businesses should be carefully considered."

Paragraph 14 says:

"While the number of affected businesses is relatively small, the financial implications on such companies would be severe".

I ask him to expand on that. Lloyd Austin has also commented on the issue, so I would like him to come in afterwards.

Stephen Freeland: There is a provision in the current UK tax regime that allows water to be added to waste, either as part of the production process or to assist with its transport—for example, to dampen waste down to avoid it blowing off the back of the truck as it makes its way down the road. I can only imagine that the idea behind the proposal is to incentivise the dewatering of the waste at the point of production. However, that cannot work too well when there will be cheaper disposal options down south where, presumably, the existing watering provision discounts will remain in place. For example, if, under the Scottish regime, a customer who might benefit from a 50 per cent discount on the tax rate on his waste material had that discount removed, that would represent an additional tax of £40 that he would be responsible for. However, he can transport that material anywhere down south for less than £40 a tonne. Therefore, the only way to incentivise dewatering is for the whole of the UK to adopt the regime.

As Jim Baird said, if there are two different systems, the waste will move to the cheapest option. That means that the material will end up in landfill in England, which means that the Scottish Government loses out on revenue, Scottish businesses are at a competitive disadvantage to their UK counterparts, the waste industry loses out and there is, obviously, less money for the landfill communities fund.

Lloyd Austin: We recognise that there are pros and cons. The consultation paper sets them out. Excess water being allowed into landfill is a relevant issue, as is the question whether the removal of the dewatering discount will encourage excess water to be allowed into landfill, causing leaching and pollution problems. Those issues represent one side of the matter, but on the other side is the issue of waste tourism, which has just been described. On balance, in our understanding, the ban on liquid waste and the other mechanisms that can be used to control pollution can be set against the waste tourism problem.

The waste tourism problem not only generates more transport but takes resources out of the Scottish landfill communities fund, which is for communities and projects. On balance, we feel that keeping the same regime as applies down south is the best thing to do in the short term, although we can think about it again later. At this stage, a big change could be disruptive.

10:45

Professor Baird: I was not sure about the issue, which emerged in the most recent consultation. Does it arise because working out the position is complex? I do not know. I looked at the HMRC guidance, which is specific about what

does and does not count. We are not talking about waste that liquid can flow out of as leachate and so on—a solid cake can still have quite a bit of moisture content.

I was not sure, but I thought that it was an issue not for operators but for industry. Industry should supply the landfill operator with waste that makes it easy for the operator to manage the process. That has an implication for businesses.

I thought about why we want to ban landfill. Liquid wastes are not allowed in landfill—that is fine. In the consultation document, I was looking for a sense of the scale—I had no feel for the number of businesses that claim the discount, so I could not work out how much water was getting into landfill. If the proposal is an attempt to prevent liquid from getting into landfill, we might think, “Hang on—it rains on landfill sites,” so we are up against it there.

I wanted to see the scale of the problem before we did away with the allowance, as the CIWM response said. That was our view.

The Convener: I call Jamie Hepburn.

Jamie Hepburn: I want to take the conversation back a little, convener, so I would be happy to come in later if others want to comment on the issue that you have raised.

The Convener: No—fire away.

Jamie Hepburn: I raised earlier the suggestion in CRNS’s submission that the 10-mile radius should apply to recycling activity, but I did not hear a response. I have a constituency interest, although that is a moot point, as we probably fall within the 10-mile radius anyway. I think that the proposal would send a positive message and I would like to hear a bit more detail on why CRNS thinks that recycling activity should be included as well as transfer stations.

The Convener: I am happy to return to that issue, because no one else has asked to speak about dewatering.

Mary McLuskey: CRNS’s view is that landfill tax receipts and the fund that is available to communities should ultimately reduce, because the amount of landfill should reduce over time. We hope that the fund will diminish. It might take us some time to get to that position, but that is where we will be.

In our submission, we argued that we need a different approach. People are talking about the result when something has to go to landfill, but we argued quite strongly in our submission that we should attack the situation from the start of the process and prevent resources from going to landfill. That is why we included recycling, reuse and repair in our submission.

Over time, we should make better use of resources—they should be reused instead of going to landfill. It might take us a very long time to get to that position but, if we use resources properly—if we reuse, recycle and repair them—the amount of landfill and landfill tax receipts should diminish over time.

We referred to the levy system that has been implemented in France. It deals with furniture, but the model could be applied to any manufactured goods. A tax is levied on any furniture that is sold in France, whether it is manufactured there or imported, to prevent landfill from accumulating. There are two methods—one for domestic furniture and one for industrial furniture. France is trying to reduce landfill from the start, by having an end-to-end delivery system.

We strongly advocate the use of recycling, reuse and repair organisations. Our focus is on any landfill funds that are available, but we are looking for a much longer-term strategic approach to reducing landfill.

Willie Beattie: I referred earlier to the policy that we have had over the years of taking account of facilities where waste is collected, processed and transported as well as landfill, and recycling facilities are certainly included in that. I have visited quite a few, and the larger ones are not pleasant places to be around. Jamie Hepburn is absolutely right that they are at least temporarily landfill sites in some cases because the material lies there for a long time before it is processed. We try to adopt a fair, reasonable and equitable approach to applying some of the funding to such facilities, but with the bulk of it going to the communities around landfill sites.

John Mason: To continue the theme of recycling and reuse, I noticed that Professor Baird said in his submission:

“projects supported by community groups should not distort the principal recycling and reuse markets that are serviced by the private sector or local authorities”,

and that Lloyd Austin said in his:

“the fund should not fund projects that are the responsibility of local authorities or Zero Waste Scotland.”

How do we tie the two together? Clearly, local authorities are not recycling or even giving residents the opportunity to recycle a range of things. Is it not good if we can boost the ability of other groups to go in and do what the local authorities are not doing even if the local authorities should be doing it?

For example, I had food recycling, but it has just stopped in Glasgow, where the local authority says that it was a pilot. That is disappointing. There is no garden waste recycling or glass

recycling. If somebody could do that, would it not be good?

Lloyd Austin: That depends on how we view the responsibilities of a local authority, Government agency or public sector body as opposed to those of a community, local charity or non-governmental organisation of some description. If the landfill communities fund is for the latter group and Parliament has placed a statutory responsibility on the former group to do something, should that group not do it rather than the third sector having to pick up that responsibility? The third sector should add value to what the statutory sector does. If it is forced to pick up the things that local authorities and others cannot do because of a lack of funding, that means that the added value that it would otherwise be able to provide is not given.

Does that make sense?

John Mason: It still is added value in one sense, is it not?

Lloyd Austin: If Parliament has placed a statutory responsibility on a local authority or an agency and there is resource for the third sector to do something else, those two things happen. If the public agency or local authority does not do what Parliament has asked it to do and the third sector picks up that responsibility, only one of the two tasks is done.

Jamie Hepburn: I think that I misinterpreted the point that was made in the submission. I think that Mary McLuskey was saying that the fund should be allowed to fund recycling activity, which I am quite relaxed about.

I was more interested in Mr Beattie's response, because I am talking about those who suffer. It is clear that people suffer disamenity when they live next to a landfill site. The point that I am making, which I think that Mr Beattie has accepted, is that people can also suffer disamenity when they live next door to recycling facilities, particularly larger ones. I was pleased to hear that the flexibility is used to allow such sites to be included in the scheme. The biggest question is whether such facilities should be included explicitly in any guidance or secondary legislation that is introduced.

As Mr Beattie made the point, I throw the question to him primarily, but others can comment as well.

Willie Beattie: Since 2002, there has been no targeting of the landfill communities fund, so it has evolved. Looking at the percentages of what has been funded and where, I think that it is fair to say that there has been a reasonable and fair distribution of funds across various areas,

including those that are disadvantaged but outwith the 10-mile radius.

It would be difficult to set a target that so much of the fund must be spent within the 10-mile radius—we would start to get into talking about a 15, 20 or 25-mile radius. In the Highlands and Islands, waste can travel quite a distance before it reaches a landfill site.

Jamie Hepburn: That was not the point that I was making. I know that the 10-mile radius is only in guidance at the moment and that there is flexibility around it, but if we are saying that projects should fall within a 10-mile radius of a landfill site, should we also include facilities of the type that I mentioned?

Willie Beattie: The draft regulations refer only to landfill sites or waste transfer stations, and we would support the view that the phrase “waste transfer station” needs to be clarified. After all, a recycling centre could be called a waste transfer station, given that some of the waste ends up going to landfill anyway.

Mary McLuskey: Taking a step back from landfill itself, I point out that, having engaged with community groups and CRNS members, some public amenity sites have sealed containers on site for the collection of reusable materials and all sorts of things, including wood, aggregates, bicycles, furniture and electrical goods that can be repaired, reused and recycled back into the local community. Such an approach can lead to a reduction in landfill.

However, we have found it difficult to engage with local authorities to enable ease of access to the sites and thereby reduce costs to community groups. There is also a scale issue. Some sites are too small to do that sort of thing on their own, so there needs to be almost a geographic cluster. We would welcome the opportunity to engage with local authorities, both in that way and on a much wider basis, to reduce what eventually goes to landfill. We know that certain materials that should not be going to landfill are doing so and that good-quality wooden furniture, for example, is being pulped, made into very poor-quality furniture and put back into the system at what I have to say is a high cost to people in the community. Our members serve those who are on the lowest incomes and in great difficulty, and I suggest that a cycle of deprivation and poverty is being engendered by people not having access to good-quality reused or repaired furniture and other materials. We would certainly welcome and push for local authority amenity sites having tripartite arrangements with local communities and private sector organisations that transport waste.

The Convener: I call Stephen Freeland.

Stephen Freeland: The discussion has moved on slightly from when I raised my hand—

The Convener: That is all right—you can move it back if you like.

Stephen Freeland: On the issue of fair competition that was alluded to five minutes ago, third sector and community groups clearly have a role to play in Scotland's zero waste agenda and can provide vital services in that respect. I note that the regulations give the Scottish landfill communities fund the additional objective of funding third sector recycling initiatives. That is a new feature compared with the existing regime, and all we are calling for is a level playing field for all operators in the recycling market, no matter whether they are in the third or the private sector.

I will give you a quick example. As has been suggested, some local authorities are pulling different services, and an authority might tender for bids for, say, a glass recycling service. Private and third sector operators will obviously be entitled to bid for that contract, but it would be slightly unfair if the third sector bidder had received X thousands of pounds through the fund and were therefore able to make a more competitive bid. All we are looking for is a level playing field, and the regulations and guidance will have to be looked at to ensure that that happens.

John Mason: That is fine if both sectors want to provide such a service. However, do you accept that, if no one wanted to do so, it would be useful to have an incentive for the third sector or whoever?

Stephen Freeland: If no one wanted to provide the service, I am not sure why the third sector would be more inclined to accept an incentive than the private sector.

John Mason: But an incentive would be acceptable.

Stephen Freeland: What sort of incentive are you talking about?

John Mason: If no one wanted to pick up my glass, we would need to give someone an incentive to do so.

Stephen Freeland: If no one wanted to pick up your glass, that would suggest that for whatever reason the market conditions do not exist for the service to be delivered.

The Convener: I see Mary McLuskey champing at the bit to come in.

Mary McLuskey: I have two points. We are talking about trying to reuse and repair and about reducing what is going to landfill, and I do not think that the market should necessarily dictate that. I agree that there should be an incentive for somebody to pick up the rubbish and glass or

whatever is seen to be less useful than something else. Often, third sector organisations cannot tender on an equal playing field, because they do not have a whole team of people who write professional tender bids and scrutinise the detail, as can be done in the private sector, which can allocate that type of resource. So the third sector actually has a disincentive to apply for some tenders because, even when we put things together well, the time and effort that are required to do so distract from other activities. Personally, I would lobby strongly for an incentive for the third sector so that it can engage on a level playing field to do that very thing.

11:00

The Convener: Jim Baird is next—he has been very patient. He will be followed by Jean Urquhart, who has also been patient.

Professor Baird: I suspect that, in reality, those two circles do not overlap that much. The key is that there has to be a market, regardless of who is in it, or else we are just doing something that is not supported and which is therefore maybe not what we should be doing.

There is no question but that the community sector plays a valuable role, particularly in education and engaging communities. I do not mean just education projects; I mean the types of projects that engage well. In some rural communities in the Highlands, there might be no private sector presence, and therefore community groups excel and do well. The private sector is not really interested in the reuse of materials such as furniture and in the promotion of that, so that is where the community sector can step in and have a role. The sector also has a strong social agenda. Great work goes on on employability, welfare issues and getting people back to work. There is a huge role for the community sector, and we have a welcome opportunity to give it the objective of reducing landfill. However, where there is direct competition, we have to be a little careful because, if we subsidise supporting organisations that compete with each other, that distorts the market, which is not the right way to go.

Jean Urquhart: I have been thinking about the ambition of the Scottish Government and the Scottish Parliament on zero waste. I think that we currently recycle about 40 per cent of waste, although I might be completely wrong about that. If that is the case and we have the ambition to get to 90 or 100 per cent, it follows as night follows day that the number of delivery trucks going to landfill sites will reduce and the number going to waste transfer sites or recycling facilities will increase. That ambition surely needs to be reflected somewhere in the legislation. I do not deny the needs of communities that are next to landfill sites,

but surely the incentives must be placed heavily on recycling and preventing stuff from going to landfill sites in the first place. How do we go about doing that? I do not feel that there is an emphasis on the zero waste ambition in what we are suggesting or in the consultation document.

Willie Beattie: We must remember that the Scottish landfill communities fund is relatively small and cannot be all things to all people. For example, the Cumnock and Doon valley gift furniture scheme, which I know quite well, will come and take away anything but the wallpaper from someone's house—that is its snappy catchphrase. That is the level of project that we are talking about and that is what the fund was good at in the past and can be good at again, because this objective is being brought in. Rather than commercial glass collection or things like that, it is about promoting a bottom-up process and engaging communities so that they do something for themselves. Ultimately, that will benefit the national waste plan, because anything that educates people and encourages better practices has to be a good thing.

Lloyd Austin: On Jean Urquhart's big-picture question, she is absolutely right that the Government, in common with all countries across the European Union, is ultimately committed to reducing landfill to zero. In a sense, that was the purpose of introducing the landfill tax in the first place: it provides a disincentive to landfill use.

As Jim Baird said, over the past 15 to 20 years, the behaviour of the industry has changed significantly, which is why the scheme is a good one. We are debating what happens to the resource that is, in effect, part of what goes into the landfill communities fund. Even as recipients of the fund, we recognise that, were the Government to achieve its overall big-picture objective and the amount of landfill was to reduce almost to zero, the amount that can be taxed and credited to the fund would inevitably reduce to zero as well. The issue is therefore how we spend the fund most wisely while its size reduces.

The debate must be looked at in the context of the wider Government policy on zero waste as a way in which local authorities and other regulators and deliverers of services operate. If you look back to the zero waste policies generally, you see that the landfill tax was only part of the answer. We cannot solve the issue just with the tax, but we must use the fund's resources while they exist in the best possible way.

Jenny Schwarz: I echo Willie Beattie's point about the scale of the fund. I agree that it is not appropriate for the fund to be used for large-scale recycling schemes; rather, due to its size, it is more appropriate to fund the bottom-up community projects.

The Convener: We have been talking for more than an hour. No one has asked to speak further. Are there any burning topics that we should discuss? After the witnesses have a minute or two to reflect on that, I will ask each of you, if we do not have any further topics, to make a final point to the committee.

Malcolm Chisholm has an issue that he wishes to cover.

Malcolm Chisholm: I was slightly intrigued by the Chartered Institution of Wastes Management's comment on exempting local authorities and SEPA. Its submission says:

"one unintended consequence ... of no tax being applied might mean less effort being directed by local authorities in tackling flytipping."

I do not know to what extent that is regarded as a serious possibility, but it would be interesting to reflect on what the unintended consequences of the exemption could be.

Professor Baird: I think that the consultation wording talks about where the owner of the waste could not be found and therefore a tax could not be applied to them. It would be a bit unfair for SEPA to arrange to dispose of the waste and then have to pick up the landfill tax bill.

We took the exemption not just to apply to illegal disposal in terms of an illegal landfill or an illegal activity, but to mean fly-tipping. Stephen Freeland made the point that we want to ensure that the perpetrators or the owner of the waste are chased and the matter is pursued.

The proposed exemption might suggest that if neither SEPA nor local authorities have to pay the tax, they would have less of an incentive to tackle waste crime, which is a serious issue. That might just be a small unintended consequence. It was a point to be made—that was all.

The Convener: I am going to go round the table and ask each witness whether they wish to make any further comment on the issues that we have discussed. I will leave Mary McLuskey to the end because she kicked off the discussions.

Does anyone wish to say anything? Do not all rush to respond at once.

Lloyd Austin: I have a trivial issue to raise. At the end of our submission and in our evidence to the Government, we suggested a few small tweaks to the wording of the regulations based on our experience of working with distributive environment bodies, Entrust and HMRC.

The suggested changes—such as replacing "income includes" with "income means"—are aimed at ironing out glitches and preventing problems that we have experienced in the past from arising. I commend those suggestions to

Government to inform its thinking in finalising the regulations.

Jenny Schwarz: On a related point, I agree that it is important that the guidance is clear, especially for applicants to the fund. At present, it is a bit of a maze for them to work their way through, which is fine for seasoned fundraisers but more difficult for community groups. It would be welcome if the scheme had a clear central point to which community groups and bodies could go to get information about a fund. One possible way of doing that is to have a website administered by the landfill communities fund forum.

The Convener: Does Stephen Freeland have any further comments on issues that are of concern to SESA?

Stephen Freeland: We broadly welcome the proposals as they are, and we are pleased that they are more or less in line with the existing regime, which provides the certainty that we are looking for. There are a number of tweaks here and there, such as the dewatering proposal, which goes against the grain of maintaining consistency and certainty across both regimes. It would be nice to know what the tax rate will be sooner rather than later.

Willie Beattie: This might seem a very minor point that is lost in the consultation document, but we have noted that the regulations state that the regulator could

"impose such conditions as it sees fit".

We think that the sentence should be reworded to say "as it reasonably sees fit". That part caused quite a stushie—as we say in Scotland—when it was introduced not long ago, as it means that at present the regulator can say, "You need to do that."

The Convener: You would be astonished at how often the words "reasonable", "reasonably" and "reasonableness" are discussed in this committee in relation to various projects and pieces of legislation.

Professor Baird: I have nothing to add, other than to say that I have reflected quite a few times on the comment that Jamie Hepburn made at a previous meeting that I attended when he threw one question at me, on the implications of the tax—with regard not just to the communities fund, but to the overall tax. I had not thought about that—for example, if the tax is devolved and we are on a £100 million downward trajectory in reducing the budget, we would, unless Scotland had those additional tax-raising powers, lose that fund over time.

I have reflected on that point several times in the past six months, Jamie.

The Convener: We are trying to get the Office for Budget Responsibility to do exactly the same in its projections.

Jamie Hepburn: I am glad that Professor Baird is reflecting on my question, although I cannot remember asking it.

The Convener: Yes, your brain has always been a well-honed machine, has it not, Jamie? *[Laughter.]*

Mary McLuskey will be the last of our witnesses to comment.

Mary McLuskey: I reiterate what has been said. I would seek simplicity in anything that comes out about the application process for the fund, and I would like to see a strong emphasis on community-based groups that recycle, reuse and repair.

On the longer-term aspect that Professor Baird mentioned, I refer the committee to the paper that I wrote on the French levy system, which would be an adequate replacement for any diminishing fund in relation to the landfill tax.

The Convener: You should ensure that we have a copy of that. It has intrigued me and the deputy convener at least, if no one else.

I thank all our witnesses for a lively and involved discussion this morning. We agreed earlier that we would take the next items in private, so I close the public session.

11:14

Meeting continued in private until 11:25.

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

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

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk

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

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk

e-format first available
ISBN 978-1-78457-807-7

Revised e-format available
ISBN 978-1-78457-818-3