



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

FINANCE COMMITTEE

Wednesday 19 March 2014

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FINANCE COMMITTEE

9th 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:

Dave Moxham (Scottish Trades Union Congress)

Joanne Walker (Low Incomes Tax Reform Group)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

Committee Room 3

Scottish Parliament

Finance Committee

Wednesday 19 March 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 ninth meeting in 2014 of the Finance Committee of the Scottish Parliament. I remind everyone to turn off mobile phones and other electronic devices.

Agenda item 1 is a decision on whether to take item 3 in private. Are we agreed?

Members *indicated agreement.*

Revenue Scotland and Tax Powers Bill: Stage 1

10:00

The Convener: Agenda item 2 is continuation of the committee's stage 1 consideration of the Revenue Scotland and Tax Powers Bill with evidence from the Scottish Trades Union Congress and the low incomes tax reform group. I welcome Dave Moxham from the STUC and Joanne Walker from the low incomes tax reform group. There will be no opening statements, and I will start the questioning. I will direct my questions to one or other of you, but you should both feel free to answer if you wish.

In your written submission, Ms Walker, you say that the bill is well drafted and reflects

"the consultative approach that the Scottish Government has adopted".

However, you go on to say that, in your view, it contains some gaps and that in some areas, such as penalties, it would be better for the powers to be in primary legislation rather than in secondary legislation, as is proposed. Can you give one or two specific examples in that respect?

Joanne Walker (Low Incomes Tax Reform Group): We think that all the principles and the powers concerning penalties should be in primary legislation. That is partly a matter of principle but it is also because such an approach would give more opportunity for scrutiny and amendment through the parliamentary process. Moreover, by putting all the powers in primary legislation, you would send a clearer message to the taxpayer and tax advisers about the importance of compliance.

Dave Moxham (Scottish Trades Union Congress): I have general sympathy for that view. Words are important when one judges severity and intention, but so are figures, and it can sometimes be helpful at the outset to add to the words by quantifying the effect of a bill's intention.

The Convener: One area in which there is a difference of opinion between our witnesses this morning is the general anti-avoidance rule. Ms Walker, you say that taxpayers, particularly those who are unrepresented and are required to self-assess, are entitled to clear legislation with certainty of effect. You suggest that clarity and certainty in legislation counter tax avoidance, but do they?

Joanne Walker: If you keep the legislation fairly simple and, therefore, clear—if, indeed, clarity is a function of simplicity in the legislation—you offer fewer loopholes and, therefore, fewer opportunities for avoidance. Moreover, if you try to create a more level playing field with less of a

differential between the ways in which you tax different types of transactions, there will be less of a will or desire to avoid. If you keep things simple, there will be fewer loopholes and complexities.

We are concerned that low-income taxpayers might get caught in the crossfire of the GAAR, which is why we want certainty. Sometimes a low-income taxpayer who is unrepresented can, in effect, be forced into using what the GAAR might consider a tax avoidance scheme. As a result, they might become a tax avoider, but not through their own choice.

That might happen, for example, with the use of umbrella companies or personal service companies. Low-income taxpayers are sometimes forced to accept work by becoming a worker for an umbrella company or by setting up a limited company. That can be the only way in which they get the work, and if they do not accept that, they might lose their benefits.

The Convener: Surely, if the GAAR is drawn too narrowly, the interpretation, as we have seen with recent high-profile cases, can be exactly the opposite; in fact, it can allow much more room for avoidance. That is why the Scottish Government is considering a general anti-avoidance rule rather than the anti-abuse rule that has been introduced in the United Kingdom. If the rule is too strictly defined, the spirit is lost in the precise wording of the legislation.

Joanne Walker: We are concerned about obtaining a bit more certainty. You could perhaps keep the rule as wide as it is currently drawn, but, if so, we would suggest the introduction of other safeguards for unrepresented taxpayers. Those are the people with whom we are concerned, and that is what we would hope to see.

That aim could be achieved by ensuring that the guidance is extremely good and kept up to date. We have made other suggestions, but the requirement is to ensure that there is a balance.

The Convener: Mr Moxham, you say in your submission:

“a Scottish GAAR should not be narrowly drawn and should reflect elements of the European Union recommendations on tax avoidance.”

Can you expand a wee bit on the STUC's view on that?

Dave Moxham: Our general view is that tax avoidance is now a significant political issue. There is an extent to which politics should be dealt with carefully in the design of new legislation, but the current public perception of avoidance and its use can affect a whole range of behaviours and legitimacies. People's approach to their benefit payments, tax and a whole range of what we would describe as societal compliance rests at

least partly on their view of whether a tax system is fair and is being applied evenly and justly. That is a general point; we think that it matters in a broad economic and social context. I should also say that we are not for a moment averse to considering in detail the supporting mechanisms that might be put in place for small and unrepresented taxpayers in dealing with the GAAR.

The bill essentially sets out two principles. First, a key factor in whether subsequent avoidance is judged acceptable or not is the intention of the original legislation and of Parliament in allowing to be designed any tax planning process. Secondly, there is the question of financial proportionality—in other words, whether the tax planning or avoidance sought is proportionate to the profit or tax advantage that is gained.

We think it entirely reasonable that, once those principles are established, the question of how the issue is dealt with in-house by revenue Scotland and through the support that might be provided by way of early clearing for small taxpayers should be considered. The principle itself is very important, and it would set the approach taken by the Scottish Parliament and Government in stark contrast to the very narrowly drawn regulations that have been introduced at Westminster.

The Convener: Unison's submission states:

“The EU guidance is that it should be for the taxpayer to demonstrate that the arrangements are not artificial but section 62 puts the burden of proof on RS.”

I take it that you are of the view that the burden of proof should be on the taxpayer, not revenue Scotland.

Dave Moxham: Yes, absolutely.

The Convener: Unison's submission also states:

“Unison would support the introduction of a provision in the Bill requiring disclosure of tax avoidance schemes ... UK GAAR panel members are all drawn from the tax avoidance industry which makes consent to the application of the GAAR unlikely in most cases. If there is pressure on Ministers to introduce an advisory panel for the Scottish GAAR it must be done in a transparent way with truly independent members.”

I take it that you would also go along with that.

Dave Moxham: I would. Taking your second point first, I do not think that the comparison is entirely analogous, but the STUC is a great fan of what was once described as the industrial tribunal, in which our members had the opportunity to have their cases heard before an employer expert, an employee expert and a third person who very often brought to the table a general perception of how the workplace should be. The other two people's expertise was, of course, very important and obviously there is an extent to which any

advisory panel will expect to have a requisite level of expertise as far as its guidance is concerned.

However, on my earlier point that the bill's overall principles and their application are a matter of general public concern, we believe that any advisory panel should, as Unison says, be not only created "in a transparent way" but drawn from a broad enough range of people to ensure that the public can have faith that all considerations are being taken into account.

Joanne Walker: We have suggested the introduction of an advisory panel with commercial experience. It is important to stress that an advisory panel is just that—it advises. At the end of the day, revenue Scotland will draw up the guidance and decide what the GAAR will and will not cover; an advisory panel is there to advise. It is important that panel members have commercial experience because corporation tax, for example, moves very quickly, as do certain kinds of businesses in the digital sector, and there is a danger that if people with no commercial or tax experience decide these matters, they will make incorrect decisions purely through a lack of understanding. That is our reasoning for having people with commercial experience on the panel.

The Convener: Only commercial experience?

Joanne Walker: Commercial and tax experience.

The Convener: Okay. I have one final point before I open the session to colleagues. Ms Walker, your submission suggests:

"there should be limitations on the power to charge a fee, for example, if a taxpayer is unable to pay using a fee-free method because of a disability".

I am a bit confused about how someone's disability would prevent them from paying with a fee-free method.

Joanne Walker: It is just a slight concern; our real concern is with safeguards for low-income taxpayers. Our remit covers people with disabilities, low-income workers, migrants, students and pensioners. There is a concern about payment methods, in that there might be some reason why a person cannot use a payment method other than a method that revenue Scotland has decided to charge a fee for.

I might not be able to think of an example—

The Convener: What would prevent them from using certain methods of payment?

Joanne Walker: For example, a fee might be charged for paying by cheque or credit card. If, because of a disability or whatever, a person could pay only by cheque, they would be charged a fee and would not have the option of using a fee-free method. It is more a concern about equality

impacts, and we should be aware that such impacts might need to be considered in that area.

The Convener: I open the session to colleagues.

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): Both witnesses have mentioned the process of consultation that has informed the bill and indeed the low incomes tax reform group has said that, as a consequence, the bill is well drafted. Can you comment on the process of consultation and how it has informed the bill?

10:15

Joanne Walker: I am aware that there have been various avenues of consultation. The first consultation on tax management was, I believe, back in 2012. Every six months, there is a devolved tax collaborative at which various bills or parts of bills are discussed, and I have been involved in various other workshops to discuss, for example, equality impacts and the design of the website for revenue Scotland.

The important point is that revenue Scotland and the taxes framework are being set up from scratch. There is not that much experience of having such frameworks and a tax authority within Scotland, although that is not to say that experience of other situations is not relevant. There is a willingness to learn from other situations and experiences to get the widest possible view, which is always helpful in developing systems and frameworks. That willingness shows—the bill is generally well drafted. We have a few little issues with certain areas, but the bill itself generally stands up well. It is quite clear and, whatever happens after 2014, it will, I hope, provide a good framework for any devolved taxes.

Dave Moxham: I would echo most of that. As I said in our consultation response, the STUC and a range of other organisations were invited to participate in not just the devolved tax collaborative but the Cabinet Secretary for Finance, Employment and Sustainable Growth's consultative forum. What was important and indeed particularly helpful about his forum was that it brought together a mix of people with specific expertise—of whom I can clearly state I am not one—from a range of organisations, including the Poverty Alliance, youth organisations and the STUC. The cabinet secretary will probably say—the officials certainly will—that the fact that Westminster has been going through a similar process, albeit a process that we are less happy with the outcome of, has also been of assistance.

Jamie Hepburn: I am sure that you are a valued member of the group, Mr Moxham.

Ms Walker, in response to the convener, you mentioned your concern about the GAAR impacting on low-income taxpayers. When you talk about low-income taxpayers, I presume that you are talking about people on low incomes rather than people who pay a low amount of income tax, who are not necessarily one and the same.

You also referred to the further devolution of taxes. Do you have an on-going concern about the impact on low-income taxpayers? Realistically, how many of those people are likely to be caught up in the land and buildings transaction tax and the landfill tax?

Joanne Walker: The impact from the two taxes that have been devolved might be minimal, but I am aware of groups of low-income taxpayers who might be affected by the Scottish landfill tax. There are also those who do not have a very high income but who, because they have a lot of property, might be caught within the land and buildings transaction tax, and those people would be of concern to us.

Jamie Hepburn: That is helpful.

In your submission you say that people who are not directly employed by revenue Scotland could be delegated functions to carry out on behalf of revenue Scotland. You say that an explicit provision should be included to set out that a delegatee could not exceed revenue Scotland powers when carrying out a function and that they should adhere to the charter that is put in place. What is your concern here?

Joanne Walker: The concern, based on experience elsewhere, is that when functions are delegated to another organisation, that organisation might not act in a way that revenue Scotland would deem appropriate. I understand that the delegates are likely, in the main, to be other governmental organisations, such as the Scottish Environment Protection Agency and Registers of Scotland in the first instance. I also understand that it is an accepted principle that they would not be able to exceed the powers.

However, as the bill is setting up the framework for revenue Scotland, it is setting the tone for the Scottish tax system, and it is important to make that an explicit provision. Although unrepresented taxpayers are unlikely to read the bill itself, if there is something explicitly provided for in the law, they are more likely to be aware of it, or an adviser might be able to draw their attention to it, so that they realise that they have rights.

The danger is that, if it is not explicit in the bill, in order for taxpayers to be aware of their rights, they will also have to be aware of a general principle that may be part of a law elsewhere, and you would be relying on taxpayers being aware of

other laws and how they dovetail into the tax system. That would not be the most equitable situation, so that is why we would like it to be explicit. It is another safeguard for the taxpayer.

Dave Moxham: I have a point relating to the delegated authority. As you will see from our submission, we are not against the idea of delegating authority to SEPA and to Registers of Scotland, but some care has to be taken in relation to the overall guidance and objectives of those organisations. For instance, we recently had some concerns that the Regulatory Reform (Scotland) Act 2014 conferred on SEPA a duty to promote sustainable economic development. We argued when the bill was going through Parliament that that was a slightly contentious position to take, given that SEPA's main function is to guarantee good environmental governance.

Our understanding is that revenue Scotland would not have that expectation, so it is important that, in undertaking its delegated functions, SEPA would be adhering to delegated functions based on revenue Scotland's objectives rather than on others that it holds in its remit.

Jamie Hepburn: That is helpful. In the low incomes tax reform group's submission, you set out a point that has been raised with us by others, which is that, in the charter, revenue Scotland should be expected to adhere to, rather than simply aspire to, its standards. We raised that with members of the bill team, who conceded that the charter might not have been drafted appropriately and said that they would look at that. I presume that you would welcome the fact that they will be looking at that again.

Joanne Walker: Yes, I am aware that they were looking at that again. The specific duties for the taxpayer are to be set out in the law, as are the consequences of failure to comply—that is why we think that the penalties should be there—but the charter is to set out and frame the relationship between the taxpayer and revenue Scotland, so we think that there should be expectations on both sides and that it should provide a balance, showing what the taxpayers' rights and responsibilities are and what revenue Scotland's rights and responsibilities are. I hope that that will develop a relationship that is built on trust and mutual respect and will show that revenue Scotland will be even-handed in its dealings.

Jamie Hepburn: I suppose that what you are saying is that there should be a degree of equivalence between them.

Joanne Walker: Yes.

Jamie Hepburn: You mentioned your perspective that penalties should be specified on the face of the bill, which is something that you have both commented on. The point has been

raised by others, too, but I still cannot quite see what is really being contested. Ms Walker, I think that you said that this is almost an issue of principle—others have said that, too—but I am not clear why it is such a high principle. Secondary legislation has the same effect in the law as primary legislation. Surely what matters to the taxpayer is the certainty of the system, rather than the certainty of what is in primary legislation or secondary legislation. It is the system that will affect them. Is it such a big issue?

Joanne Walker: I think that it should be a big issue for revenue Scotland and for Scotland generally. We agree that there should be a GAAR, but having penalties is a bit like having a GAAR. A GAAR is about ensuring compliance and deterring avoidance, but that is even more the case for penalties, because penalties show the taxpayer what will happen if they do not comply.

It is also a matter of sending out a message that revenue Scotland is going to be fair and is going to be seen to be fair. The taxpayer will see what will happen if they either do something or do not do something. I will know that if I do not do it, I will get a penalty, and I will also know that if my next-door neighbour does not do it, they will get a penalty.

Jamie Hepburn: It is still not clear to me. That is not an issue of whether the provisions are in primary or secondary legislation—it is almost as if the guidance on what the penalties are going to be was going to be hidden, but I am pretty clear that that will not be the case. What is being contested here? I am still not clear about it.

Joanne Walker: If someone gets a letter from revenue Scotland saying, “We are imposing a penalty on you under the Revenue Scotland and Tax Powers Act,” that will be a bit stronger than saying, “We are giving you a penalty under regulation 26” or whatever. Everyone knows that an act is law, but I imagine that some people might not realise that regulations are law. They might think that they are just rules, and that they are not as important as law.

Jamie Hepburn: I am not going to sit here and write letters for revenue Scotland, but presumably the letter would go on to say, “And, by the way, if you don’t pay this, you could face the full force of the Scottish legal system.” Presumably that is the bit that would cause people more concern than whether the measures are in the act or in regulations. If I got such a letter, that is what would frighten me, rather than where in legislation it emanated from. Surely that is the case.

Joanne Walker: It probably would be, but I think that it is about sending out a message that compliance is so important that it has to be in the bill.

Dave Moxham: My reaction is to do with preference more than principle. I suspect that many people who have been involved in drafting the bill would probably consider their current view to be a question of preference rather than one of principle. I tend to concur with you, Mr Hepburn, when it comes to the effect of a letter and how things are described. If Parliament is laying out clear principles on avoidance in primary legislation, then quantifying for Parliament the extent to which the bill considers lack of compliance to be a punishable offence is not unhelpful in terms of framing the overall tenor of the bill. That will help Parliament to take a view on the quality and substance of the bill. As I say, that is a matter of preference rather than principle, but I think that it would be helpful.

Jamie Hepburn: That is useful.

Joanne Walker: I will add one more little thing—an example of the length of time of scrutiny. The bill was published in December 2013, so we have had quite a long time to look at it already and to make our suggestions in evidence. I believe that the regulations will be published from April onwards, which provides a lot less time between the regulations being published and coming into effect. Although the regulations will be subject to parliamentary scrutiny, they will not, by necessity, be subject to as much scrutiny, because there is just not as much time for other people to give their views as well as for Parliament to consider them.

10:30

Michael McMahon (Uddingston and Bellshill) (Lab): Until now, the bulk of the evidence that we have taken—probably almost all of it—has been about who is going to be affected in relation to the structures, the functions and the technicalities of the bill. We have been more concerned about lawyers and accountants and the organisations themselves. The STUC has given us a reality check in talking about those who will be affected as they work through the system. The staff will face challenges, given the complexities involving HMRC, revenue Scotland, SEPA and Registers of Scotland. Can you give us some examples of where those challenges will lie?

Dave Moxham: I will give a couple of examples. The first is a general one, if you do not mind returning to the anti-avoidance principle. If one takes the view that taxpayers, particularly small and unrepresented taxpayers, will need a significant amount of guidance, or at least some mechanisms whereby they are able to test the effect of particular tax choices prior to making a final decision, it is vital to ensure that revenue Scotland is staffed to deal with that. We know from a whole range of statistics that have been

produced by trade unions and other organisations that one of the problems with HM Revenue and Customs has been a lack of staff working on the recovery of tax. Figures have been produced that show clearly that the additional tax recovered per HMRC employee in instances where extra employees have been utilised has been very high.

Revenue Scotland will start with a relatively small pool of staff, with—we hope—a relatively broadly drawn anti-avoidance principle. That means that it will require sufficient staffing levels to provide guidance and, eventually, effective recovery under the new system.

None of the unions that represent people in either HMRC or SEPA is saying that the broad arrangements that are outlined in the bill are not workable, but one of the issues that must be dealt with is the fact that there are a number of people north and south of the border working on these two taxes who are not working in a discrete geographical situation or on just one single tax. There is clearly a reorganisational implication in the medium term, and that would grow if further taxes were devolved.

We are not arguing that the transition should be anything other than manageable in any of those cases, but it requires resourcing and it requires a reasonable view to be taken on the number of staff who will be required, particularly in the first few years. It also requires—you would expect us to say this—a full consultation with trade unions to ensure that that takes place effectively.

Michael McMahon: Unison in particular has identified issues to do with the “adequate funding” of the organisations and ensuring

“sufficient powers and protocols to enable staff to do their work”.

Should that be in place before revenue Scotland is up and running and the staff are already working? Should the consultations on that have been taking place already?

Dave Moxham: I do not think that that is possible. I would be delighted if you could correct me and tell me that those protocols should be fully negotiated prior to the end of the legislative process. However, if it is made clear at committee, parliamentary and ministerial levels that that is a commitment looking forward, that would be very helpful to us.

Michael McMahon: I do not know whether you will be able to answer this question, which came from Unison—I do not know what your knowledge of its attitude to this issue is. In response to the consultation, Unison has expressed support for the idea that, in order to investigate illegal activity, there must be a power to enter domestic premises, as long as that is done according to

appropriate levels of scrutiny. Do you have a view on that, and can you understand why Unison would be concerned about that?

Dave Moxham: I can understand why Unison would take that view, but I would temper it by referring to the second part of your question, which is that it would need to be subject to clear guidelines. I am no expert, but one can imagine circumstances in which that might be necessary.

Joanne Walker: I had a look at Unison's submission, because I am aware that HMRC does not have criminal powers, as such, in primary legislation. However, the Police and Criminal Evidence Act 1984 is applied to HMRC to give it power, under statutory instruments, to enter and search in certain situations, so I would have thought that that was the route to choose. My reason for saying that is that tax law is generally civil law with civil penalties for non-compliance. Although, obviously, there can be criminal activity relating to tax, that should be covered by the Police and Criminal Evidence Act 1984. It may also be the case that HMRC staff may not want to have those powers, and it may be that a special unit is required.

Michael McMahon: Would the new act have to say specifically that that power is covered by the 1984 act?

Joanne Walker: It would need regulations. I do not think that you would need to put anything in the bill. My understanding is that it would be a case of having secondary legislation and statutory instruments.

Michael McMahon: That may be something that we can look into. Thank you.

John Mason (Glasgow Shettleston) (SNP): I would like to start off with one or two points that have been raised already and which I would like to clarify. Mr Hepburn was going on about penalties. My gut feeling about why I would not want penalties in the primary legislation is that, having lived through inflation that was 10 or 15 per cent, I know that any figure for penalties in legislation can be eroded to a point at which it becomes nonsensical, and it is a huge effort to go back and amend primary legislation. Could we get round that by just putting an inflation index in the primary legislation, so that at least it would keep going up?

Joanne Walker: You do not have the same process in Scotland as there is in the UK for updating the rates each year, but there might be some mechanism whereby you could put a number in the bill and then say that it is subject to amendment by regulation, so that the administration for making those amendments for uprating could be in secondary legislation.

John Mason: The other thing that I am thinking of is a situation in which, let us say, there are two penalties—one for £100 and one for £500—and you decide that it is illogical that one should be so much higher than the other, so you want to vary them. If the penalties are fixed in primary legislation, would it be harder to make those adjustments?

Joanne Walker: When you say that they are fixed, do you mean for different taxes or different offences?

John Mason: It could be for different offences under the one tax.

Joanne Walker: It might depend on the offence, and I suppose that in that respect the situation will change once there are different taxes. At the moment, we have two transactional taxes. When you have a tax such as income tax, which is annual, you will want the penalties for that to be different, so there are ways in which the bill may need to be changed in future, or amended by other laws.

John Mason: Is there a balance to be struck between the clarity of having as much as possible in the primary legislation and the flexibility of not having it in the primary legislation?

Joanne Walker: Yes. You need that flexibility to be able to make amendments. How that is done in the legislation is for the bill team to look at.

John Mason: I return to some of the points that you made when you were speaking to the convener. You talked about having clarity linked to simplicity—I am certainly a fan of simplicity—and I think that you said that that would lead to less desire to avoid paying tax. Did I understand you correctly?

Joanne Walker: When I said that, I was thinking about having less of a differential between the ways in which different structures are taxed. At the moment, if someone sets up a business and is self-employed, they will be taxed at the income tax rates. If they then decide to become a company but are still a one-man band, their rate is substantially lower. There are obviously other reasons for incorporation that are non-tax related but, from a tax point of view, it can be more efficient to incorporate.

John Mason: That clarification is helpful, and I agree with that point. Sometimes people make artificial decisions, such as being self-employed when we would probably all say that they should be employed, because the decision has been made so that the employer does not have to pay national insurance.

Joanne Walker: Yes, and sometimes that is not really their choice. Sometimes it is, but in some

cases they are forced by circumstances to take that decision.

John Mason: That is something that we cannot do an awful lot about at the moment, but your ideal tax system would be one in which things were simpler and maybe everybody would pay the same rate, so that it would not matter so much whether someone was self-employed.

Joanne Walker: Essentially, yes. More fiscal neutrality can prevent there being as much of a need for avoidance.

John Mason: Does the STUC have any feelings on that point? It is perhaps a little outside the scope of the bill, but there can be such a big tax difference between being employed and being self-employed. Are you comfortable with that?

Dave Moxham: We are not at all comfortable with the way that what we call bogus self-employment is currently operating at a UK tax level. I accept the point that simplicity can be helpful to some extent, but what is more important is that clear messages about what is acceptable and unacceptable begin to emerge. To an extent, that is an evolutionary process, particularly with the creation of any new tax system or tax body, but it seems fairly clear to me that a general anti-avoidance principle could apply and be interpreted fairly quickly in relation to the large majority of cases, such as the example of self-employment that has just been cited. That is more of a question of clear guidance and consistent application of the rules, if and when they have to be implemented in relation to a particular tax. I take the general point, but I think that it is more about how the system operates than about the drawing of the rule in the first place.

John Mason: We talked about the advisory panel. Ms Walker, I think that you said that it was just to advise. That makes me wonder what the point of it is. You said that people on the panel should have commercial experience, whereas Mr Moxham drew a parallel with an industrial tribunal, where there is one person with employer expertise, one with employee expertise and one who is more of a layperson or member of the public. Could we replicate that in the advisory panel? My fear is about whether the public, who want taxes to pay for hospitals and schools, would be represented on the advisory panel.

Joanne Walker: There is probably a place for some variety on an advisory panel. You do not just want three people with exactly the same views; that defeats the object of having three people on the panel. However, if you want a proper view of avoidance, you need to have some understanding of the business environment in which the company, business or individual is operating, and some understanding of the tax environment. That

is not to say that a lay member would not have that—they may very well have that experience and understanding—but we must be careful about who goes on a panel, ensuring that they are making a valid and reasoned judgment. That would be the point of having a panel: its members should be providing input. Revenue Scotland might not have certain experience, and the panel would be providing that knowledge and experience.

10:45

John Mason: I wish to push you on that point. Surely it is valid for a member of the public who does not have any tax experience to say that Starbucks should be paying more tax. We do not need an expert to look at that, do we?

Joanne Walker: One would need to have a bit more understanding of that firm's accounting system or whatever; we cannot really comment on individual cases. If we are considering a GAAR, we have to be a bit concerned about the extent to which revenue Scotland would have jurisdiction over the worldwide affairs of international companies like Starbucks.

Dave Moxham: I presume that were the bill to provide for an advisory panel, it would be there for two reasons. Flank 1 would be that revenue Scotland staff might be overzealous, and the other flank might be that revenue Scotland—or a particular officer—might lack expertise. Our primary point is that such things can be minimised, to an extent, by good governance and by good and effective training and skills in the organisation. I do not wish to exaggerate the difficulties that might occur day to day, as I have heard some people do. Properly trained revenue Scotland officers will be able to undertake their tasks.

If it were agreed that an advisory panel should be in place, the issue would not be so much around the layperson's view of tax generally; it would be about interpretation of the intention behind the legislation. The intention of legislation is political and is subject to public perception. It is a very public event for the Cabinet Secretary for Finance, Employment and Sustainable Growth to introduce proposed legislation that would enable additional tax planning, and for that bill to be analysed. It is entirely appropriate that people with commercial experience should judge the proportionality and effects of a company's decision to take a particular tax planning route. It is also important to have expertise and to have laypersons' input into considering what the cabinet secretary meant by introducing a particular piece of legislation and what the public understands by that legislation.

John Mason: Has there been too much emphasis on the letter of the law in tax legislation

in recent years, and have we forgotten about the spirit of it?

Dave Moxham: That has begun to change, to some extent. At UK level, there have been a number of cases recently in which the courts have taken into account more general provisions around the intention, rather than the letter, of the law. Judging from how the bill is drawn, I say that there is a leaning towards the idea that legitimacy comes partly from a judgment as to whether legislation that comes to be relied on for tax planning purposes was intended for that purpose. In starting from a clean slate, if the aim is for intention to play a greater part in the future considerations of revenue Scotland, that should be reflected in how revenue Scotland acts and is advised by any advisory panel that might be created.

John Mason: I will move on to a separate issue. Ms Walker, your submission mentions judicial review, which should be extended and made more available, rather than restricted. Your submission discusses the "lower courts and tribunals" being involved. Will you expand on that?

Joanne Walker: Yes. There is not a huge amount on judicial review in the bill. We put a reasonable amount about that in our written submission because there was recently a UK consultation on restricting access to judicial review, which concerned us greatly. That is why we wanted to ensure that we put to the committee our view that judicial review should certainly not be restricted and should even be extended.

Judicial review is a remedy that applies when a taxpayer has no statutory right of appeal or when they have exhausted all other remedies. It is for when a tax authority, with the best will in the world, makes a mistake; if there is alleged wrongdoing or a failure to act by the tax authority and no other remedy is available to the taxpayer, they would use the judicial review route. The UK Ministry of Justice was proposing to remove or restrict the ability of representative bodies like the low incomes tax reform group to bring judicial review cases on behalf of groups of taxpayers, so that it would be up to an individual taxpayer or, because judicial review covers more than tax, any individual to bring a case. Following the consultation, the Ministry of Justice has rejected that proposal and has accepted that it will still be possible for representative bodies to bring such cases.

An example of a case that we were involved in came from the realisation in 2007 that a lot of pensioners had been underpaying tax because their pension providers had not, with HMRC agreement, been using tax codes and so were not deducting tax on small pensions. Individuals did not owe very much tax over the years, but in total it was quite a large amount. HMRC decided to

regularise that position and to write off all the tax apart from the tax for the previous 12 months. Essentially, it was trying to tax retrospectively people whom it had not been aware of because, with HMRC agreement, the pension providers had not been deducting tax.

The low incomes tax reform group managed to negotiate with HMRC on that case. Groups such as ours would always try to negotiate and persuade first rather than go immediately down the judicial review route. Thankfully, we managed to persuade HMRC that it would have been conspicuously unfair and, in fact, an abuse of power to collect the tax for 2007-08 and that it should collect tax only from the point at which the taxpayer was made aware of the situation through their tax code. Basically, that meant that the future tax could be collected.

We managed to persuade HMRC in that case, but we did so by suggesting that we would be willing to take it to judicial review. In that instance, no individual would have been able to take the case to judicial review, because by the time that they realised something was amiss, it would have been too late. They would not have been aware in time and would have had tax codes that meant that HMRC would have been collecting tax that, strictly speaking, was due but which went back several years.

That is the kind of case that the low incomes tax reform group would want to bring to a judicial review. We must ensure that there is such a safeguard and that people are made aware of its existence by its being publicised properly.

John Mason: I am not an expert on judicial review; you probably know more about it than I do. Does it need to be in the legislation, or is it out there anyway?

Joanne Walker: Judicial review is out there anyway because it is part of the legal system. However, at the moment people have to go to quite high-level court. We would like judicial review to be extended so that cases can be heard in the lower courts and in tribunals—for example, the tax tribunals, which would be less costly. At the moment, it is very costly for an individual to take a case to judicial review.

John Mason: I understand the point. I do not know whether it lies within the bill's remit, but I will take advice on that.

Paragraph 11 of your submission says:

"It would be sensible for RS to adopt the position that tax and administrative burdens should be no more onerous than those in the rest of the UK and that any divergences should be in favour of the taxpayer."

I agree with that as far as administrative burdens are concerned, and it goes back to the issue of

simplicity that we discussed earlier. We have achieved that to some extent, because revenue Scotland will charge less than HMRC would charge. Are you suggesting that the tax rates should not be any more onerous?

Joanne Walker: No. It is more to do with things like, for example, record keeping. Section 69 contains the taxpayer's duty to retain records for five years. The current record-keeping requirements for individual taxpayers in the UK is only two years, or a year and 10 months after the tax year, so the new requirement is for a significantly longer time than the UK system. For the individual—especially the individual unrepresented taxpayer—that could cause confusion. It is fine if a different length of time is chosen, but that difference must be communicated properly. How it will be communicated might not be for the bill, but a longer record-keeping requirement means that the impact on the taxpayers must be considered.

John Mason: If changes are made to what people have been used to, that should be publicised.

Joanne Walker: Yes.

John Mason: Two years strikes me as being an amazingly short time.

Joanne Walker: That requirement is for individual or personal taxpayers. Businesses must keep records for five years and 10 months.

John Mason: The final area I want to touch on is the general anti-avoidance rule—I am sorry Mr Moxham, but I am aiming most of my questions at your colleague.

Dave Moxham: You are welcome to do so.

John Mason: Ms Walker, on the general anti-avoidance rule, paragraph 28 of your submission states:

"We suggest that at s58 the phrase 'sole or main purpose' is used, rather than the wider and less certain 'main purpose, or one of the main purposes'."

We have touched a little on how wide the GAAR should be. Why do you want the bill to say "sole or main purpose"?

Joanne Walker: Our points on the GAAR have been made with a view to ensuring as much certainty as possible for the unrepresented taxpayer. We have therefore made various suggestions—not all of which we expect to be adopted, by any means—that we think might make the situation slightly more certain for the unrepresented taxpayer.

John Mason: I made this point at last week's meeting. Do you accept that more certainty is

good for a good taxpayer but bad for a bad taxpayer?

Joanne Walker: That is possible, although more certainty might not affect too much someone who wishes to avoid paying tax. I suggest that most people want to comply. They might not want to pay the maximum amount of tax that might be due, but they certainly want to comply because they want to get on with their business. The LITRG comes across people who just want to understand what their duties and obligations are, and to comply with them. They do not want to find that they have been penalised for not doing a tax return when they should have done it. What is legal, what is not, and where the line is drawn all need to be made clear. Those are the things that people want to know.

John Mason: Thank you. Do you want to comment, Mr Moxham?

Dave Moxham: Yes. If we want to provide clarity, and if a judgment is going to be made about whether an individual has acted reasonably, the provision in the bill is a better way of alerting an individual to factors that they must take into account. The formulation

“one of the main purposes”

should alert them to the need to seek further guidance or take appropriate action, in order to ensure that they do not fall foul of the law. In a sense, I prefer the first formulation to the one that is proposed; it offers better guidance for the individual.

11:00

Gavin Brown (Lothian) (Con): I want to explore penalties in a bit more depth, because my view is that the approach is somewhat inconsistent. With regard to four failures—not filing a return, not paying the tax, making errors or being underassessed by revenue Scotland and not paying the money back forthwith—the bill simply says that the Scottish ministers may make provision in regulations. However, if a person fails to comply with an investigation, the bill provides specifically for a penalty of £300, and if someone complies but carelessly gives inaccurate information there is a penalty of up to £3,000 per inaccuracy or failure. Therefore, penalties in four areas are to be left to regulations, an exact penalty is specified in one area, and there is a penalty up to a maximum amount in another area. Will the witnesses comment on that inconsistency?

Joanne Walker: We have made our position clear. As Gavin Brown said, some investigatory penalties are in the bill. Our preference is that all penalties be included, which would resolve the inconsistency and would, I suggest, be a

preferable position in the context of encouraging compliance.

Gavin Brown: You think that all penalties should be in the bill.

Joanne Walker: Yes.

Dave Moxham: I agree. Consistency is important; it is not clear why a penalty is set out for some cases but not for others. Someone might be able to explain that to me, but in the discussions that I have had so far I have not heard a reason.

Gavin Brown: We can put that question to the minister. Should anything else be in the bill in relation to penalties, such as the principles behind them or the approach that revenue Scotland should take? Would simply putting numbers in the bill satisfactorily address your concerns, or is something else needed in the primary legislation?

Joanne Walker: We would like, for example, provision for the amounts of reduction to be included, making clear the circumstances in which a penalty might be reduced, by what proportion the penalty would be reduced and any conditions for such a reduction. That would give the taxpayer a sense of consistency, fairness and certainty.

Other things are not in the bill that we think should be in it. For example, it should set out the factors to be taken into account in determining a penalty, such as whether a failure is deliberate or negligent, the amount of tax involved and the reason for and length of a delay, if someone has failed to do something on time.

Gavin Brown: Do you want to comment, Mr Moxham?

Dave Moxham: I have nothing to add.

Gavin Brown: There have been lots of questions about the GAAR. I might have noted this down wrong, but I think that Joanne Walker said that if the bill remains as it is, without the changes that you have proposed, there will be a need for safeguards for the unrepresented taxpayer, as opposed to the taxpayer who has expert representation. What safeguards do you have in mind for the group that you represent?

Joanne Walker: When it comes to helping out unrepresented taxpayers, guidance is key—guidance in general, but specifically guidance for the GAAR. Obviously, when we have not had much experience of the GAAR—there have not been many cases—that guidance may be rather small, but it will, we hope, expand, and we would expect it to evolve continuously. We need to make that guidance available in various ways because people may or may not have access to it, for example on revenue Scotland’s website.

We have suggested that one option might be a clearance procedure. If there was a clearance

procedure, I do not really see that it could be for one group of taxpayers and not another group. It would probably have to be universal—it would not help unrepresented people in particular. It is mainly about ensuring that the guidance and clear messages are there.

Dave Moxham: It would obviously be helpful for an unrepresented individual to know whether a particular scheme that they might be using had been cleared through disclosure, which is why we support a disclosure provision.

It is quite important to look at the way in which the mechanism that we have just talked about might operate. It is fair to say that one could not distinguish, in that mechanism, between represented individuals and unrepresented individuals. I understand that there would be a concern that a situation could develop in which it was the reflexive action for unrepresented individuals and represented individuals simply to pop into revenue Scotland any concern that they have, such that revenue Scotland would become an enormous clearing house for safety-first disclosure. Some thought would have to be given to how that would be constructed.

One thought in my mind is that, rather than filling out forms, there should be a presumption that a person using that process should give a reason why they are availing themselves of the process: “What was the question in your mind when you wanted to find out whether you were at risk of falling foul of avoidance legislation?” There should be a balance between individuals being able to avail themselves of a process and a presumption that they would need to go further than just saying, “These are all the things that I intend to do in the next year. Can you please make a judgment on them and get back to me?”, which would be burdensome and inefficient.

Gavin Brown: Tax advisers have also said that there needs to be guidance. Guidance may clear things up for someone who is well advised; if it is written in legalese, it may not clear things up for an individual taxpayer. Are you driving at the suggestion that there could be some kind of separate phone line, department or area of revenue Scotland that would be accessible only by people who are unrepresented?

Dave Moxham: I am not necessarily driving at that. Advice and guidance is one thing, but I am suggesting that the facility should exist whereby someone can—beyond advice—legitimately ask the question, “Is what I am proposing likely to fall foul of the law?” As to the separation between a represented and an unrepresented individual, it seems to me that if a representative organisation began to overuse such a facility, revenue Scotland might want to say something about that, hence my suggestion that one should have to explain why

one is using the provision, rather than simply being able to use it, as I said before, as a kind of clearing house for all elements of doubt.

Joanne Walker: Gavin Brown mentioned that the guidance might be written in legalese. We have always stressed that guidance should not be written in legalese and that it is essential that it be written in plain English. That does not necessarily mean that an unrepresented taxpayer will completely understand the guidance, because it will explain difficult concepts and they still might not grasp fully whether they are within or without the GAAR. However, guidance that is written in plain English would at least give them a chance to understand the subject.

HMRC has separate clearance departments. The decision on that, along with whether to have telephone helplines, is a resource matter for revenue Scotland. Such departments are helpful.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): Dave Moxham did not object when John Mason directed his questions to Joanne Walker, so I hope that he will not object when I do the opposite, although I would obviously be delighted to hear from Ms Walker, too.

The STUC’s paper is interesting. The low incomes tax reform group paper is very interesting as well, but it would be fair to say that it contains a degree of overlap with what we have heard before, whereas the STUC’s paper puts forward views in two or three areas that we have not heard so much about.

I will take one point from each section of the STUC’s paper. On the general principles, Dave Moxham and the STUC are quite keen on further tax devolution, including to local government, which is highlighted in section 2.3. I am interested in the final sentence of that section, which I suppose is directly relevant to the bill. It says:

“Given the possibility that further taxes will be devolved to Scotland it is entirely right that this should form part of the Committee’s considerations even though the role of Revenue Scotland, in the first instance will be limited.”

Has that issue been properly taken into account in the bill’s design, or is the bill too narrowly focused on the taxes that are scheduled for devolution?

Dave Moxham: The combination of being fairly specific about the taxes that will be devolved and incorporating the general principles and the approach probably provides a vehicle in which further tax change could be accommodated.

I do not want to delve into this too much, but you will know that the STUC is particularly concerned that, almost irrespective of the result of certain constitutional matters that are coming up in the next six months, local taxation is desperately in need of reform. The issue is also mentioned in the

submission from the Convention of Scottish Local Authorities. It seems likely that at least one proposal that might be suggested is more to do with income-related issues and the potential creation of new taxes. Indeed, we must never forget that we are not talking just about the further devolution of taxes because the Scottish Parliament has the power to introduce new taxes of its own. The STUC does not have a settled view on land tax, but we think that it is an area that should be examined in the next period, irrespective of the constitutional outcome.

When you begin to talk about the potential for income-related and land taxation, it is important to look at the bill's principles. Those principles allow for that to be considered, notwithstanding the fact that any significant further tax change would involve primary legislation at some point.

Malcolm Chisholm: Ms Walker, do you want to comment?

Joanne Walker: No.

Malcolm Chisholm: The next section of the STUC's paper is on the general anti-avoidance rule, which has been touched on. As has been said, there is a contrast between the STUC position and that of the low incomes tax reform group, which considers the bill to be widely drawn. It would rather have the narrower "sole or main purpose" that I think is in the UK legislation. However, the STUC proposes that

"a Scottish GAAR should not be narrowly drawn ... The burden of proof on tax avoidance should therefore sit with the tax payer rather than the tax authority."

It goes on to say that a Scottish GAAR should

"Be applicable to international transactions"

and

"include additional EU criteria".

11:15

The Trades Union Congress said two things that you may or may not agree with. It said that the UK GAAR

"will allow 99 per cent of tax avoidance to continue"

and that it objects to the panel because its members will be drawn from the tax avoidance industry. You might not agree with your colleagues in the TUC, but a combination of those views makes us stop and think, because that is a completely different perspective from what we have heard so far—particularly what the TUC said about the 99 per cent figure, although perhaps that is partly because of the international transactions issue that you raised; I do not really know.

To what extent do you think that the Scottish arrangements will improve on the UK situation and how could we make them better and stronger?

Dave Moxham: There is a fairly fundamental difference between the bill and the UK legislation regarding wording and the overall burden of proof.

I am not certain whether the figure is 97, 98 or 99 per cent, but I trust my colleagues, particularly Richard Murphy, who wrote that submission. You are right to point to the fact that the UK general anti-abuse rule will apply to the full gamut of taxes, including income tax and national forms of taxation, giving rise to that enormously worrying figure. However, let us be clear: the UK legislation is not fit for purpose. It is hard to be specific, but our judgment is that if the approach in the bill was applied to the UK situation, that 99 per cent figure could fall very quickly.

It is hard to apply the UK legislation to our position in Scotland; it is easier to look at how the bill's principles would apply to the full gamut of taxes in the UK and internationally. Undoubtedly, it would be a major advance if the bill's principles were applied at the UK level, which is the view of the TUC and other experts.

Malcolm Chisholm: Does Joanne Walker accept that analysis of the UK GAAR? In a way, the low incomes tax reform group seems to want us to replicate the UK GAAR as far as possible, which might be problematic if it is as ineffective as the figure that I quoted suggests.

Joanne Walker: I am not sure about those figures so I will not comment on them.

The anti-abuse rule would provide more certainty for our constituents, who are low-income taxpayers. Unless they actively sought an abusive scheme—which in general they would not, because often such schemes must be paid for—they could happily ignore that rule because it would not affect them. However, as I illustrated earlier, the general anti-avoidance rule might encompass them unwittingly. That is our concern.

We have not commented on the burden of proof because we probably agree with the bill, partly because it will provide a bit more balance by putting the burden of proof on revenue Scotland. As I said, revenue Scotland will draw up the guidance and ultimately it will decide whether someone's behaviour falls inside or outside the GAAR. It is right that the burden of proof will be on revenue Scotland.

Malcolm Chisholm: The final section of the STUC's submission is on workforce implications. I am particularly interested in the phrase "redesign of jobs". Does that relate to a stronger enforcement role, or is it more just to do with the

way in which different organisations will work together? What did you have in mind?

Dave Moxham: We probably had both those descriptions in mind. There is a clear suggestion that there would be cross-working between revenue Scotland and the two bodies that are named, and, potentially, other bodies. As with other pieces of collaborative working, such as that proposed for health and social care under the Public Bodies (Joint Working) (Scotland) Bill, we are very clear that to maximise the effect of that approach, we must ensure that people at the grass roots have the skills to work together. Joint training and equalisation of skills are very important.

There are people working in the UK tax system in HMRC who undertake enforcement, valuation or other activities in relation to the two devolved taxes but who do not do just that, so their jobs will need to be redesigned in the direction of training or greater specialisation in areas where they do not have expertise. Thankfully, there is a presumption in the Scottish Government against compulsory redundancies. Any such presumption calls for a policy of skills utilisation and training that ensures that people are used effectively and trained when they are redeployed into a new task. The situation is not unusual, but it is one that you would expect trade unions to point to.

Malcolm Chisholm: Does Joanne Walker have a comment?

Joanne Walker: The two devolved taxes were mentioned, but the same situation for workers probably applies with regard to the Scottish rate of income tax, which is being administered by HMRC at the moment on behalf of revenue Scotland.

Jean Urquhart (Highlands and Islands) (Ind): I return to the issue of penalties. I am disappointed that Joanne Walker feels that penalties should not be in secondary legislation. Although in the short term we are looking specifically at the two devolved taxes that Scotland will have governance over, that has clearly opened everybody's minds to think about what might be in the future. Without exception, the witnesses in our evidence sessions have shown that people regard what is proposed as an opportunity to improve everything. However, do you think that it is also an opportunity to change the culture of how we see tax? We know that although well over 90 per cent of people are not happy to pay tax, they recognise that they must pay it. Both submissions referred to large companies and tax avoidance, which should not be part of our culture—we really do not like it. It is seen as hugely unfair, as it is of course.

It seems to me that having penalties in the bill is almost saying that we expect that people will bend the law—it is a psychological thing. There is

something to be said for saying, "Here is a new bill and this is what we expect." That is what we are doing. We are setting the bar high—I hope—but we are not being so specific, hence the use of the word "reasonable" throughout the bill. My understanding is that we are doing that so that we cannot be accused of leaving a loophole. If something is not in the bill but it is reasonable and expected, the pressure is on people to pay their tax.

I suppose that I really just want you to comment on the point that, in a new tax base, the presumption must be that people will pay. The spirit and letter of the law should be much more in favour of tax collection by not allowing so many loopholes and by leaving matters to the reasonableness argument.

Joanne Walker: That is a really interesting point. I understand your rationale for saying that the penalties should not be stated in the bill. However, our view is that, as you say, most people want to comply and do not like to see avoidance, so it is important to state the penalties in the bill. If I am paying my tax and complying with the law fully, I want to know that people who do not do that—the 5 per cent or whatever who try to avoid paying tax or who do not comply properly by failing to submit on time and so on—will be penalised. I know that that would come through in regulations as well, but putting the penalties in the bill would send a clearer message.

I understand that you want to send a different, more positive message that people will comply anyway. At the moment, we are a compliant society in general, compared with some societies elsewhere, and we have one of the highest compliance rates. However, the danger is that, if you do not state the penalties in the bill, people might look around and say, "I'm not sure that people are being penalised when they avoid tax or don't submit their tax returns." If the penalties are not in the bill but are only in secondary legislation, people might think that they are not that important and might decide not to comply any more. My concern is that although people want to do the right thing—they want to comply—they also want to know that if others do not comply they will be punished, and the way to show that that will happen is to state the penalties in the bill.

Jean Urquhart: That is not a psychology that works for everyone.

Dave Moxham: I feel that I might be in danger of dancing on the head of a pin if I comment any further. I accept the rationale, to an extent. One of the bill's key messages is that avoidance will be punished—that is an inescapable fact, however much we want to promote better compliance as the bill's aim. If you are saying that avoidance should be punished, quantifying that punishment is

not necessarily a bad thing to do. However, I know that it will eventually be quantified in secondary legislation, which is why I feel that we are probably dancing on the head of a pin.

The Convener: Thank you for answering all the committee's questions. Do you have any further points that you want to make before we wind up the meeting?

Joanne Walker: As Jean Urquhart said, references to reasonableness are spread throughout the bill, which may detract a bit from the certainty for the unrepresented taxpayer. However, there is not really any alternative to using the word "reasonable". That demonstrates the importance of having really good guidance and making sure that people understand what is expected of them.

This is perhaps not for inclusion in the bill, but it might be worth considering that what is reasonable is not necessarily measurable by way of an objective test or what the average person thinks is reasonable; instead, it might be what is reasonable for the individual taxpayer based on their experience, knowledge, competencies and capabilities. For example, an individual migrant might be less capable of understanding our tax system than a large company that is advised by a large firm of advisers. What is reasonable might be different for those two different taxpayers.

Dave Moxham: I agree with that approach.

The Convener: Thank you very much.

At the start of the meeting, the committee decided to take the next item in private.

11:29

Meeting continued in private until 12:06.

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