



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### FINANCE COMMITTEE

Wednesday 17 December 2014



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**FINANCE COMMITTEE**  
**33<sup>rd</sup> Meeting 2014, Session 4**

**CONVENER**

\*Kenneth Gibson (Cunninghame North) (SNP)

**DEPUTY CONVENER**

\*John Mason (Glasgow Shettleston) (SNP)

**COMMITTEE MEMBERS**

\*Gavin Brown (Lothian) (Con)

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

\*Mark McDonald (Aberdeen Donside) (SNP)

\*Michael McMahon (Uddingston and Bellshill) (Lab)

\*Jean Urquhart (Highlands and Islands) (Ind)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Eleanor Emberson (Revenue Scotland)

Peter Kelly (Poverty Alliance)

John Kenny (Scottish Environment Protection Agency)

John King (Registers of Scotland)

**CLERK TO THE COMMITTEE**

James Johnston

**LOCATION**

The Robert Burns Room (CR1)



## Scottish Parliament

### Finance Committee

Wednesday 17 December 2014

*[The Convener opened the meeting at 10:03]*

### Decision on Taking Business in Private

**The Convener (Kenneth Gibson):** Good morning and welcome to the 33rd meeting in 2014 of the Finance Committee of the Scottish Parliament. I ask everyone present to turn off mobile phones and other electronic devices—we do not allow Candy Crush to be played at the committee.

Agenda item 1 is a decision on taking business in private. Do members agree to take item 4 in private?

**Members indicated agreement.**

## Further Fiscal Devolution

10:03

**The Convener:** Agenda item 2 is an evidence-taking session on further fiscal devolution with Peter Kelly of the Poverty Alliance and Dave Moxham of the Scottish Trades Union Congress. Unfortunately, Mr Moxham has not yet appeared or given any indication of where he might be, so we will have to go straight to Peter Kelly. Thank you very much for arriving on time, Peter. I will ask some questions about your written submission and then open out the session to colleagues around the table.

The Poverty Alliance submission is excellent and makes a lot of interesting points. You say that you were looking for “powers for a purpose” and that, in your considerations, you examined whether powers would

“help address poverty and inequality”,

which

“should be the primary purpose”

of any powers that are devolved. You talk about

“the need to work towards a ... fundamental transformation of the Scottish economy and society.”

Let us look at some of the powers, which you say have to be “real and effective.” One of your recommendations states:

“Powers over oil and gas to remain at UK level but Scotland to receive fair share of revenues raised.”

How would you define a “fair share”?

**Peter Kelly (Poverty Alliance):** It is a pity that Dave Moxham is not here, because we followed the STUC line on the taxes that we said should not be devolved to Scotland. Obviously, our primary view was that income tax should be devolved, and that Scotland should receive a share of those other taxes, with, I think, an apportionment of 50 per cent of VAT. We have not done any calculations to say what would be fair, but it should be in line with the revenues that are raised in Scotland through taxes such as VAT. That money should be disbursed back to Scotland.

**The Convener:** Does assignment give Scotland any control over policy direction? Would you like that to be considered in discussions between the Scottish Government and the United Kingdom Government?

**Peter Kelly:** That is one of the weaknesses. One thing that we said in our submission is that, no matter whether we are talking about powers over social security and welfare or powers over taxation, we must reflect the outcome of the referendum, which suggested the need for powers

to be shared between Scotland and the rest of the UK. We will not have the power to vary VAT—although, as far as I understand it, we cannot have that power anyway because of European Union VAT rules. I guess that the proposals do not give us full control to vary the amount that is raised, and they are limited in that they do not provide for the full economic impact of tax-raising powers.

**The Convener:** Obviously, welfare is a key issue for the Poverty Alliance. Paragraph 5.2 of your submission states:

“It is essential that any powers over welfare must come with necessary financial controls and policy-making powers to allow for effective delivery.”

Does the Smith agreement allow for that?

**Peter Kelly:** We called for the income tax bands and rates to be devolved, and that has been delivered, which is a good thing. However, the key or fundamental flaw in what Smith has recommended is that there is no power over allowances. The power to vary the starting rate—or the allowances at the bottom—is fundamental in tackling poverty. There are mixed views on the impact on tackling poverty of increasing the allowance to lift people out of tax altogether, because, in essence, such an approach gives a tax cut to everyone who earns more than the allowance. There are debates to be had about that but, if we are not given full control over income tax in that way, we will be somewhat limited in what we can do with it.

As for whether other powers on taxation can help us address poverty more effectively, we are pleased that corporation tax is not to be devolved. We did not call for that, so we are pleased that it did not happen.

The welfare powers that are to be devolved are a bit of a mixed bag. The powers over health and disability benefits that are to be devolved can be used—any new powers on welfare will be useful—but there is no coherence. One issue that we mentioned in our submission and that many of our members and many people in civil society have talked about is the need for coherence in the powers that are devolved. I am not sure that I see the logic with regard to the welfare powers that are proposed to be devolved to Scotland; I am not sure whether they are being devolved in order to give us the ability or capacity to address poverty more effectively.

**The Convener:** Thank you. In paragraph 5.3, you say:

“Benefit rates should be set at a level where no one is left in poverty and all have sufficient income to lead a dignified life”,

and you also talk about creating new benefits, including

“Lone Parent Grants, Health in Pregnancy grants and Child Trust Funds.”

Do the Smith proposals allow for enough resources to be raised in Scotland to pay for those additional benefits and create the equality that you are seeking?

**Peter Kelly:** I will answer that with an obvious statement: the issue is quite complicated. The powers are potentially being devolved, but because the Barnett formula will remain, it will need to be adjusted. We have new borrowing powers, but the fact that they will need to be negotiated with the UK Treasury might give some flexibility. We have new powers to create additional benefits, but they will need to be paid for. It is not yet clear whether the fiscal powers will allow us to pay for new benefits if we choose to create them, or whether the powers over new taxes will be sufficiently flexible to allow us to raise money so that we can spend more on programmes that we think will help target social injustice. Over the piece, we are not convinced that some of the powers, particularly those relating to income tax, will provide us with sufficient flexibility to get to the heart of tackling poverty in Scotland.

**The Convener:** Thank you. Is it your view that the proposals are a step in the right direction?

**Peter Kelly:** We are trying to be as positive about this as possible. There are other powers that we think should have been devolved but which have not been. Control over the minimum wage, for example, would have been important in helping us address labour market inequality. That said, we would agree that it is a step in the right direction.

**The Convener:** On employment and equalities, you have said:

“91.5 per cent of people believed Scotland should have the power to set and enforce the minimum wage”.

Given that that figure came from responses to your survey, how do you feel about the fact that the minimum wage is not being devolved?

**Peter Kelly:** It is a missed opportunity. After all, we are talking about coherence. There are issues around the work programme, which seems to have been devolved in a more or less useful way. I say “seems to have”, because a lot still has to be worked out. We might be discussing the Smith commission’s recommendations, but where we get to with those recommendations remains to be seen.

We will have control over parts of Scotland’s employability system, and the work programme is a big part of that. However, although we will have control over the work programme, we will not have control over Jobcentre Plus or sanctions. The

minimum wage should be seen as part of an attempt not only to address exploitation in the labour market and pay inequality but to encourage people back into the labour market; indeed, that was one of the arguments that was used when the minimum wage was first introduced.

There was a good case for devolving the setting of the national minimum wage to make it coherent with other parts of policy in Scotland, but we did not get some of the other machinery such as Jobcentre Plus and sanctions. I see the minimum wage as part of the architecture for helping people back into the labour market, and it would have been useful to have had control over that.

**The Convener:** Thank you for that. I will open up the questioning to my colleagues after I ask one final question. Given that you are happy with some of the measures recommended for devolution by Smith but are frustrated that others have not been delivered, are you of the view that the Smith report is—for want of a better phrase—the settled will, or do you feel that there is still an opportunity to campaign for additional financial and other powers that the Poverty Alliance would like to come to Scotland?

10:15

**Peter Kelly:** Because not all of the powers that were in our submission to the Smith commission have been recommended for devolution to Scotland, we want to retain a focus on opportunities to devolve new powers, as we have done in the past. For example, when power over the social fund was given to Scotland, we campaigned for it to be delivered in a particular format, and we would certainly consider any opportunities to do the same in line with the recommendations in our submission.

Proposals in the Smith report refer to future negotiation between the Scottish Government and the UK Government. For example, the report refers to the co-location of services in Jobcentre Plus and better co-ordination of the delivery of Jobcentre Plus services. I am far from clear about what that means in practice, but it suggests to me that there is an opportunity to work out such matters in the future.

One thing that has not been picked up much is what the Smith report says about the intergovernmental relationship, which does not seem to be at all strong at the moment. There needs to be more co-decision making, and Jobcentre Plus is one such area that is highlighted in the report.

I am not sure whose settled will the Smith report represents. I can speak only for the Poverty Alliance, and we certainly want to campaign on issues that we think need further investigation. We

will also campaign to ensure that the powers that come to Scotland work best to enable us to tackle poverty.

**The Convener:** Thank you for that.

I have learned that Dave Moxham will not be coming this morning. Apparently, he had the meeting in his diary as taking place tomorrow, and he apologises to the committee for that. You are on your own for the rest of the session, Peter.

**Peter Kelly:** I will speak to Dave later.

**John Mason (Glasgow Shettleston) (SNP):**

We have been given a copy of your submission to the Smith commission, which is quite wide ranging and goes beyond the issues that the committee deals with. However, in your general comments, you make some interesting observations. In paragraph 2.6, you say that

“This means a different approach to economic development”,

which suggests to me a culture change. Does the culture change need to be separate from the powers that we might get or is it linked to them?

**Peter Kelly:** That is a really good question. They are linked. With more powers, there is more potential to do things differently. As I said, there are constraints on some of the powers that will be devolved, and there is a question about the extent to which powers allow for the culture change to take place and a different set of priorities to be introduced.

To focus not on fiscal powers but on welfare, the fact that we will, it appears, have full control over the work programme will allow us to set up the programme differently and say how it will operate. Rules on conditionality are inherent in the work programme, and we could operate them in a slightly different way. However, the fact that we will not have power over Jobcentre Plus, universal credit or sanctions and conditionality in the main will militate against us having full control over the work programme and developing it differently if we choose.

On economic development, we need to set different priorities. That is about raising revenues through taxation, but having different priorities for how we spend them. In particular, we need to think about local economic development. We can do some of that now; indeed, we recommend that we ought to focus on the things that matter to people in their communities and that are important for economic stimulus, rather than constantly focus on economic growth. If Dave Moxham were here, I am sure that he would talk about the foundational economy. We are starting to see some developments on that. There are perhaps not moves away from the focus on economic growth, but there is interest in new thoughts on

how we grow our economy in a way that does not entail rising poverty or inequality.

We need to think about how we use the new powers differently, rather than simply varying tax rates to stimulate economic growth—hence our concern about using corporation tax just to stimulate economic growth. Is using it in that way enough? We would say no.

**John Mason:** We are covering quite a lot of ground here.

**Peter Kelly:** Yes.

**John Mason:** If the work programme could be done differently and we changed the emphasis on how people are treated, would that become a problem, because we would have one ethos in the work programme and a different ethos in Jobcentre Plus?

**Peter Kelly:** In our submission, we talked not only about the work programme but about Jobcentre Plus. There are other reasons why it would have been useful to bring Jobcentre Plus to Scotland. We have extensive employability programmes delivered by local authorities and others that, based on feedback, sometimes come into conflict with the way in which Jobcentre Plus delivers support to people returning to the labour market. It would have been better to have a greater level of coherence between the work programme, Jobcentre Plus and the employability programmes that are delivered by others.

**John Mason:** Your submission includes a section on taxation powers in which you talk about various taxes. You have mentioned income tax and how it would have been useful to have had control over the allowance. Would that make a big difference? Is the big thing not that we decide whether the rate should be 10p, 15p or 20p for example?

**Peter Kelly:** That is important. There is the potential for the allowance to be raised by the UK Government, which would surely have an impact on the rates that we set in Scotland, but we would not have control over that.

For the purposes of coherence and making income tax work properly, we argued for full control, including control over allowances.

**John Mason:** Yes. Is there a timing issue relating to when that would work in practice? If the Scottish Parliament set the rate in, for example, October, and the allowances were set in March, would you foresee a problem?

**Peter Kelly:** There could be a problem, but that is not an issue that I have considered. The issue is perhaps again about how the two Governments work together in setting the policies. Obviously, we go through a budget process in Scotland, and we

might need to consider that in terms of the setting of the UK budget.

**John Mason:** How will national insurance tie in with income tax? We have had two views expressed at committee. Some people have said that national insurance is effectively the same as income tax; others have said that it is closely linked to welfare, pensions and other such policies, and that we should keep the two separate. Do you have a view on that?

**Peter Kelly:** Again for reasons of coherence, we would have favoured the devolution of national insurance to Scotland. However, if we retain pensions at UK level, perhaps there is good reason for retaining national insurance at UK level. National insurance is a major form of taxation. Its devolution would have allowed the Scottish Government more control over fiscal policy and economic growth, so the ability to control and vary it would have been an important power.

**John Mason:** Your submission states:

“Income tax can be a tool for redistribution of wealth”.

Is that what you mean, or do you mean redistribution of income? That brings me to inheritance tax and where it fits in, as I think that you also say that that tax can be used to redistribute wealth.

**Peter Kelly:** It is about redistribution of income.

**John Mason:** However, you also support the devolution of inheritance tax. Dealing with poverty is presumably not just about redistributing income, as we have to get some of the wealth from the wealthy into the hands of the poorer. Is there any way of doing that apart from inheritance tax?

**Peter Kelly:** The most effective way of raising incomes for most people is to get them into work, which should be quality work and not low-paid work. We argue that that is the most effective route over the long term.

For the taxation of wealth, we need to look at powers over council tax and at the way that property taxes work. As property is a major way of holding on to wealth and passing it on through inheritance, we need to consider that, and I know that that will be done in the future.

**John Mason:** The committee has heard arguments on both sides of the issue. Some say that, as inheritance tax is linked to land, which is not moveable, it would be a good tax to have control over. On the other hand, we have heard that some people's wealth is in shares, which can be moved around very easily, so inheritance tax is not a good one to control. What is your thinking on that balance?

**Peter Kelly:** We are in favour of inheritance tax being devolved. We do not see great cause for



concern about avoidance, if that is what you are thinking about. Having control over inheritance tax would be useful in setting a different approach to taxation and in trying to do things differently in Scotland.

**Mark McDonald (Aberdeen Donside) (SNP):** Good morning, Peter. You mentioned coherence. Last Thursday at the Devolution (Further Powers) Committee, we had a panel of academics who basically said that the proposals as they stand are incoherent and unsustainable. Do you share that view?

**Peter Kelly:** As I think that I have said, we have struggled to identify the logic for some of the powers.

**Mark McDonald:** You mentioned in your written submission the participatory process of the independence referendum and your concern over the way in which the Smith commission process had lost almost all of that participatory element, due to its timetable.

Do you see a risk that the wider public, who became exceptionally engaged during the referendum campaign—including, in particular, those in some of our most deprived communities—will be disengaged as a result of what is seen by them as a closed-doors political carve-up rather than a properly participatory process?

**Peter Kelly:** That is an issue that we and others, such as the Scottish Council for Voluntary Organisations, the STUC and the Electoral Reform Society, have raised about the Smith commission process. There was simply no way that, in the period that the Smith commission had to produce its report, it could use anything approaching the kind of participatory approach that many of us were calling for.

It is down to the political parties, the Scottish and UK Governments, and civil society organisations to find ways to ensure that participatory elements remain in the process. There is a danger that, in the post-referendum period, people come to see it as a closed process and one that they have very little opportunity to influence.

10:30

**Mark McDonald:** I do not know whether you have had a chance to look at the STUC submission—Dave Moxham is not here to answer questions on it, and I will not ask you to do so—but it refers to a “citizen led process” that includes, for example, citizens juries. Is there a role for such a process in improving the proposals? Do you view what the Smith commission has come up with as being more of a floor than a ceiling? Is that

the spirit that you would want to see being taken forward?

**Peter Kelly:** Earlier, we talked about the settled will, which is a phrase that is probably thrown about too much. There are still opportunities for those of us who are campaigners and want to see more powers. We have set out our position and the STUC has set out its position, and we both argue for more powers.

Many of us were concerned that it was the usual suspects—organisations such as the Poverty Alliance and the STUC—that expressed a desire for genuinely participatory elements in the process. We supported the call by the STUC, the Electoral Reform Society and others for a participatory process that allowed for citizens juries and so on. Time is moving on and I do not think that that process is being delivered. We are now in the next stage of the Smith process, which is the devolution of more powers but, as far as I am aware, the opportunities for such engagement are not being developed.

**Mark McDonald:** Turning to the detail of how things might pan out, an issue that was raised by Professor David Heald at last week’s meeting of the Devolution (Further Powers) Committee was the potential for gaming in the process. An example of where that might happen is land and buildings transaction tax. The Scottish Government consults early on the proposed system and bands, and the chancellor stands up for his budget speech and announces that he is making changes at midnight that evening. That was seen by some as an attempt to circumvent decisions on which the Scottish Government had consulted.

There is also the fact that the negotiation on the block grant for devolved taxes has still not been resolved. Do you foresee difficulties ahead for the Scottish Government in administering some of the new powers if the way that the process operates is not corrected?

**Peter Kelly:** That goes back to the issue of intergovernmental relationships. Those relationships may well never be easy, but they will become all the more important when we have enhanced powers, particularly fiscal powers. That requires clearer communications and processes for negotiation and agreement than have been in place until now, in order to get round the possibility of gaming, where decisions that the Scottish Government arrives at are potentially undermined by the UK Government.

Our favoured position would be for the two Governments to work in concert. If the Scottish Government is taking action to address poverty and inequality—whether that is using new powers to create new benefits or abolishing the bedroom

tax—we would not want policy activity at the UK level to undermine those efforts. That will be difficult to achieve, but at the base of that are clearer and better intergovernmental relationships.

**Mark McDonald:** To go back to the issue of coherence, one point that has been raised is that, although the Scottish Government has the ability to create new benefits and to top up benefits, the variability of the tax base from which it can draw more income is limited, so income tax is essentially the only significant lever available, and there are only so many different ways to go to the same well. Are you concerned that a consequence of that could be that, although we will have the powers to do those things, we will not have the financial base to be able to do them in a meaningful way?

**Peter Kelly:** That was always a concern, and many civil society organisations expressed their concern that, if new powers—particularly around welfare and benefits—were to be given to Scotland, we would need the wherewithal to do something creatively with those benefits. Whether we increased benefits, delivered them in a different way or created new benefits, we would need to have the tax-raising powers and, in difficult times, the borrowing powers as well. Given what I have said about the Smith proposals on income tax, I would say that we perhaps do not have all the powers to raise money that would be needed to deliver some of those benefits. Although we will have the power to create new benefits, it is not yet clear to me how we would pay for some of them.

**Mark McDonald:** The convener of the Devolution (Further Powers) Committee received a note from the Scottish Parliament information centre that suggested that, if the Scottish Government were to top up a reserved benefit in future, it could have a knock-on effect on a claimant's universal credit. Paragraph 55 of the Smith commission report appears to suggest that that should not happen, but do you foresee that being a potential issue and does it need to be absolutely bottomed out before powers are transferred?

**Peter Kelly:** That would be my reading exactly. The Smith commission says clearly that that should not happen but, as far as I understand it, that could happen under the current set-up of our welfare and benefits system. Something that needs to be addressed and set out clearly is what the impact of any additional new benefits or top-ups to existing benefits would be on claimants' other benefit income.

**Gavin Brown (Lothian) (Con):** Last week, we had a pretty interesting session with tax experts, who looked at the powers that were going to be devolved—primarily the financial powers—and

outlined some of the challenges that we might face and the difficulties of implementation. There are one or two issues in relation to VAT and there is a stamp duty issue that had not been picked up by anyone until then. I want to ask you the same questions. When it comes to the powers that are being devolved, starting with welfare powers, are there any difficult decisions that we will have to make and are there any challenges for implementation that you can highlight for the committee now, so that we and anyone reading our report can think about those issues as soon as possible?

**Peter Kelly:** We need to think about the delivery mechanism for any new benefits. At the moment, where new powers have come—with the Scottish welfare fund—local authorities have been used as the delivery mechanism. That seems to be working at the moment for the Scottish welfare fund, but we need to think about how the range of benefits that are being devolved to Scotland will be delivered, and that will undoubtedly be a challenge. Obviously we do not have a separate Scottish social security system, so we need to think about delivery of those benefits, which will be an initial challenge.

**Gavin Brown:** This might be an unfair question, but I think that you have highlighted a good issue. Do you or your organisation have initial views on how benefits should be delivered, or are you simply highlighting the issue?

**Peter Kelly:** To be honest, we have not taken a position on that yet. The work has not been done. I am trying to think whether any of our members has raised any issues with us with regard to delivery, and I have to say that I do not think so. They have raised the question whether local authorities would be able to deliver those responsibilities if we went down this route. I have not had any clear answers to that question, but there was certainly equivocation on the issue.

**Gavin Brown:** Perhaps I can apply my initial question to the issue of the work programme. Are there things that we really need to think about now to ensure that we get implementation correct?

**Peter Kelly:** With regard to the criticisms that were made of the work programme during its development, I note that one of the rationales behind it was that a lot of it would be delivered by the voluntary sector. However, the reality across the UK has been quite different, with third sector providers being squeezed out or given very small parts of the programme to deliver. We need to think about how the prime contractors were brought into the work programme and in particular how the third sector, which has a great deal of expertise in delivering back-to-work programmes, was involved. We also need to think about the role

of the public sector in delivering aspects of the programme.

We would say that the work programme is not really delivering, and we need to take a fundamental look at it. Its success rates might be improving very slowly, but they are still no better than those of its predecessors. We must have much more ambition for the successor—if we can call it that—to the work programme that comes to Scotland, and we must think fundamentally about how it is constructed, who delivers it and how it is delivered.

**Gavin Brown:** The Smith commission has produced its report but I note that in your submission you talk about the assignment of alcohol, tobacco, fuel and gaming duties in, I guess, a similar way to the assignment of VAT revenues. The argument for assigning VAT revenues was that, although we would not control the rate, we would be able to collect more VAT if the economy grew. What was the rationale behind your stance on the assignment of revenues from alcohol, tobacco and so on? I presume that public policy would be seeking to reduce alcohol and tobacco consumption, which would mean that there would not be the same opportunity to grow those revenues.

**Peter Kelly:** I suppose that we were focusing more on fairness rather than on using those powers as you might use other taxation powers—in other words, to grow the economy. Our point was that because that money has been raised in Scotland, it should be assigned to Scotland.

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

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** How many member organisations do you have, and what range of members does your organisation cover?

**Peter Kelly:** We have about 200 members. Around a third are individual members, many of whom have direct experience of poverty and have worked with the Poverty Alliance, and the other two thirds are made up of a range of voluntary community organisations. Moreover, some statutory bodies are associate members. Most of the main anti-poverty organisations in Scotland are members of the alliance.

10:45

**Malcolm Chisholm:** That is helpful. What would be your top priorities in terms of extending the provisions of Smith? You mentioned the minimum wage, but it would be interesting to hear more about that. If we take tax and welfare separately, what would be your top two priorities for further devolution?

**Peter Kelly:** On what we do as an organisation for the future, there is something around ensuring that the taxation powers that are eventually devolved are delivered in such a way and used by the Scottish Government in such a way that they help to address poverty and help to fund the fight against it.

On future priorities, looking at potential further devolution, I think that we will have to go back to the question of allowances—this might be over the longer term—and look at how it works in practice once new taxes are devolved. Once we see what happens in practice, there might be a strong argument for the devolution of allowances. That would be around taxation.

**Malcolm Chisholm:** In a way, then, that is more important to you than additional taxes such as inheritance tax or whatever other taxes you would like to be devolved.

**Peter Kelly:** That would be fairly central to what we would be calling for. We would need to go back to our members and have a discussion about the post-Smith situation. We had as much discussion as was possible before the Smith commission to try to get feedback on the paper that we produced and get people to feed in their views.

On the specifics around taxation, there are opportunities for us to have more of a discussion than we have had in the past about what we will do with taxation in Scotland with the new powers that will come. The tax-varying powers that we had were limited and, in common with many other people, we did not campaign around them. Now, there is more scope for us to think about how we use the new taxation powers that will come to Scotland and, given that not all the things that we were lobbying for have been delivered, to consider what emphasis we can put on further devolution.

It will be a question of what our members think are priorities. Given our previous experience, I imagine that they will want us to focus on the powers that we have and on ensuring that they are used to best effect.

**Malcolm Chisholm:** It seems that your tax proposals in general are not too dissimilar from what the STUC is proposing, but it also says that it feels that it would be right for about two thirds of the money that we spend to be raised by our taxes. Do you have a view on that or is that not really a matter of priority for you?

**Peter Kelly:** It is not something that we have had a view on up to now.

**Malcolm Chisholm:** Perhaps you are a bit more divergent from the STUC on welfare. What would be your top priority for additional welfare powers, beyond what has been proposed?

**Peter Kelly:** Again, we will need to look at how the new powers play out. The main thing that we have talked about is the devolution of powers around working-age benefits, and we still need to look at how those are delivered at the UK level.

Up to now, we have campaigned and lobbied on the delivery of welfare in Scotland in the UK context, so our lobbying has been focused on Westminster. I guess that, in some ways, it will remain as such. In line with our partners in the Scottish campaign on welfare reform, we will want to see adequate benefits and delivery that actually supports people back into work. We want to see a system that treats people with dignity.

Universal credit will be the main part of welfare in the future, and we want those principles to be applied to its delivery. While we might argue for those powers to be devolved to Scotland, we will take those arguments to where control lies at the moment. Maybe I am giving you my campaigning strategy rather than saying what our priorities are.

We will have to argue with Westminster as universal credit is retained there—it is the main benefit and there are potentially significant problems with it. As I have said, the conditionality regime will remain at the UK level but we will argue that Jobcentre Plus should be devolved. That position was starting to be discussed prior to the referendum, although it had not been clearly articulated by many organisations. That would still make sense, and the devolution of the work programme makes it more logical. As I said earlier, it is important that employability programmes are coherent. On the basis of subsidiarity, which we mention in our submission, it makes sense for those services to be delivered and controlled in Scotland to make them coherent with the employability programmes that we already have here.

**Malcolm Chisholm:** Do you see any risks in the devolution of welfare that you are suggesting? If there is a big rise in unemployment, for example, how will that be catered for within the devolved settlement?

**Peter Kelly:** If those powers were devolved, we would need additional fiscal powers to be devolved too. Borrowing powers will be devolved, to some extent. Rising unemployment in the UK has not been addressed in the way that it should have been addressed over the past few years. We do not believe that the Government should have been cutting benefits and services. Many people would agree that the balance of cuts and borrowing should have been different.

If unemployment were to increase and if we had control over some of the welfare benefits that we have talked about, we would need to consider a different way of supporting the increase in

expenditure on those benefits. However, we do not have those powers over welfare, so it is not a question that we need to address at the moment.

**Jean Urquhart (Highlands and Islands) (Ind):** Thank you for your written submission, which is very interesting.

Do you think that the Smith commission's attempt is too broad and that there is a little bit of leeway in a number of areas rather than any dramatic change through the devolution of real power to the Scottish Government that would mean that the general public in Scotland would be aware of a significant difference in one area?

**Peter Kelly:** Are you suggesting that the Smith commission's recommendations are too broad and too thin to have a sufficient impact on any of the areas? Have I got that right?

**Jean Urquhart:** Yes. I will clarify what I am trying to get at. There are many similarities between the wish list in the STUC's paper and your own wish list around welfare, income and work programmes. In its response to those issues, the Smith commission seems to go so far but not far enough almost in every area. Do you agree with that?

**Peter Kelly:** Yes. That is a correct assessment.

**Jean Urquhart:** If we accept that, are there areas in which we might not have seen any devolved power but where things had gone as far as the requests in other areas that would have made a more dramatic difference? In other words, if we had devolved the entire work programme—employment, the minimum wage and so on—at the expense of not doing so much on welfare, could that have made a greater difference to the overall picture?

**Peter Kelly:** The suggestion is that, had we focused our attention on particular aspects of taxation policy or welfare policy, we might have seen more of a difference. That was more or less what we suggested in our paper. We used a phrase about devolving

“all welfare powers that are best delivered in Scotland”.

That was a fairly open phrase—deliberately so—which should allow particular packages to be devolved. If that was not to cover all of welfare, we and many others talked about working-age benefits being devolved.

I do not know whether this would be enough to be called a package, but sets of benefits around disability are an example in which we will see a difference, and people could feel that difference. In getting the powers, we must decide whether we will do something different with them. That is the important thing. If we just administer the powers in

the same way as the UK Government did, people will feel no difference.

There are risks and potential issues around disability benefits in the period up to devolution. Cuts are already being made in some of those benefits. When they eventually come to Scotland, they will have been cut and they will be worth less than they are at the moment. That immediately presents a challenge for the Scottish Government post 2016 and it may wish to do something different with those benefits. I am sure that many people in disability organisations will say that they need to be restored to their current or even previous levels. That will present a challenge.

Would the population in general have felt that things were being done differently if there had been a different focus to the powers that have been devolved? Yes. With the powers that are being devolved, we could see a big difference, depending on the decisions that are made once those powers come here.

**Jean Urquhart:** In your submission, you mention possibilities involving a percentage of VAT and other taxes and duties. We do not understand the Barnett formula, so I wonder whether such measures will make any difference at all. Would we not need to know with real clarity how the Barnett formula is arrived at? For example, if the economy improves and there is a higher income from VAT, that would surely have to show somewhere in order for us to be convinced that Scotland was better off.

A number of economists are raising concerns that Scotland could end up worse off. We might alter income tax, and we might improve the economy. We might do better with a work programme. However, that would all be for nothing if we do not understand how an improvement in the Scottish economy is reflected in the Barnett formula calculation.

**Peter Kelly:** Correct me if I am wrong, but I think that one of the proposals from the Smith commission, and one of the discussions, was about the reworking of the Barnett formula. That needs to be done, and that seems to be part of the discussion about what happens after Smith.

I am not sure about the context in which we could lose out through the assignation of those taxes to Scotland. I am not sure of that scenario; I just do not know enough.

11:00

**Jean Urquhart:** Okay. That was all I wanted to ask.

**Michael McMahon (Uddingston and Bellshill) (Lab):** We heard a lot of evidence in the run-up to the referendum. After the referendum, in

anticipation of the Smith commission's outcome, we also took a lot of evidence from experts, academics and others. Quite a number of people made the point that there seemed to be an assumption that our getting more powers would automatically make things better. However, a lot of organisations, in their analysis and in their anticipation of the possible changes, failed to mention the risks involved in some of the decisions that would have to be faced. I commend you for not falling into that trap. You say quite clearly in your submission:

"The devolution of further powers to Scotland must take into account the need to reflect the desire to share responsibilities, risks and powers with the rest of the UK."

Those risks relate to the economy. The more powers we get over economic levers, the greater the risks are in terms of what the Scottish economy can allow the Scottish Government to do to create greater levels of benefit, a stronger, organised welfare system and the types of programmes that will create the dignity that we would hope for. Is there a danger that we do not take account of those risks when we make that analysis?

**Peter Kelly:** One of the fundamental points that we were trying to get across in our submission, which you touched on at the start of your question, is that it is not simply about having more powers—it is about what we do with those powers. It is about using those powers in different ways to tackle poverty.

There are risks in any change in the balance of responsibilities between the UK Government, the Scottish Government and the other devolved Administrations. There is a risk that policy-level decisions will be made that, from the point of view of the Poverty Alliance, will not help to address poverty. However, those risks remain in the current or previous division of powers as well. Are you asking whether devolving those powers to Scotland will increase the risk of economic failure?

**Michael McMahon:** The reality is that it is about two sides of the same coin. Unfortunately, some people see only one side of the coin and talk about the devolution of powers being only a benefit, an improvement and an enhancement. However, unless we take into account the risks on the other side of the coin, it is not a fair analysis.

**Peter Kelly:** That is true, and it is what we tried to get across in our submission. We tried to say—as has already been highlighted—that the devolution of further powers to Scotland needs to take into account what the Scottish people said in September. What did the Scottish people say in September?

**Michael McMahon:** They said no.

**Peter Kelly:** A lot of the discussion up to September and afterwards has been about the desire for more powers. We need to recognise that, in the context, that means sharing both powers and risks.

In the paper that we submitted to the Smith commission, we argued that the retention of certain powers at the UK level should be taken into consideration—we were referring to things that are best done at that level. We tried to emphasise that we should have a set of powers that would best help us to address poverty and inequality, which we think is the aspiration of most Scottish people.

**Michael McMahon:** In your paper, you recognise that some progress had been made on the reduction of poverty for a period of time. A catastrophic economic change took place in 2008-09 that must have contributed hugely to the halting of that progress, but in 2013 the Joseph Rowntree Foundation produced a report that looked at the powers that were already held by the Scottish Government and that report was fairly critical of the Scottish Government for its failure to do more with the powers that it had to address poverty. Is there not a concern that, if we do not focus on how the powers are used, we will end up continuing the constitutional discussion rather than having a discussion about what we want to do with the powers and whether it would be best to use the powers that we already have?

**Peter Kelly:** We are in the middle of a constitutional discussion. We need to look again at the powers that it would be best to have delivered in Scotland and that it makes sense to have delivered in Scotland within the overall constitutional settlement of a division of powers between the UK Government and the Scottish Government. Those of us in civil society will always be concerned about what happens to those powers and how they are used.

I keep going back to the Scottish welfare fund, because I think that the approach that we ended up with in Scotland is important. The fact that we had that power—the fact that it was devolved to Scotland—allowed us to do something different that reflected the desire of many in civil society to have a coherent and consistent approach to the delivery of emergency support to people who need it.

A different approach has been adopted in England and Wales, which I would argue has been far less effective. No one was arguing for the social fund to be devolved to Scotland for the sake of it. If a power comes to Scotland, those of us in civil society will want to do our best to make sure that it delivers most for people who are living on low incomes.

It is not simply a constitutional question; it is about what we do with the powers once we get them.

**Michael McMahon:** I agree with you—that is the point that I was trying to make.

**The Convener:** That concludes questions from the committee. Are there any further points that you would like to make before we wind up the session?

**Peter Kelly:** I do not think so.

**The Convener:** Thank you very much for shouldering the burden of the evidence giving. Your responses are very much appreciated.

Had we had both witnesses here, the session would have been expected to last for 90 minutes, and at this point I would have allowed us a short break before moving on to our next evidence session. However, it looks as though it will not be possible for us to do that for another 20 minutes or so. I therefore suggest that we now take item 4 in private, after which we will have a break until our next panel of witnesses arrives.

11:08

*Meeting continued in private.*

11:24

*Meeting continued in public.*

## Devolved Taxes Implementation

**The Convener:** Our next item of business is to take evidence on devolved taxes implementation from Eleanor Emberson, head of Revenue Scotland, Scottish Government; John King, director of registration, Registers of Scotland; and John Kenny, head of national operations, Scottish Environment Protection Agency. Of course, all the witnesses were here three weeks ago. It is no secret that they are here today because of issues raised in the Auditor General for Scotland's report "Preparations for the implementation of the Scotland Act 2012".

Without further ado, we will go straight into that. The witnesses know the drill: I will ask a specific question and it is up to you who wants to answer it. For the first question, I will go straight to the "Key messages" in the summary of the report. Paragraph 1, which should be familiar, states that

"delays have reduced the time available to develop the IT system and appoint staff. As a result, there is increased risk that the IT system may not be fully operational by 1 April 2015 and that Revenue Scotland may not have the expertise to manage the devolved taxes effectively from 1 April 2015."

What are your initial comments on that statement, please?

**Eleanor Emberson (Revenue Scotland):** Good morning, convener. I am happy to answer. As I made clear in my evidence to the committee on 26 November, we are confident that we are on track. We worked through the material in the report with the Auditor General, so we agree on the facts, but the conclusions that were drawn from those facts are the Auditor General's, not ours.

The Auditor General notes increases in risk, but we recognise that we are managing the risks. Managing programmes and projects is not simply about writing plans and following them; it is about staying on top of any problems that arise, actively managing risk, watching the critical path—to use the terminology—and making sure that we are ready to deliver. We are confident that, on the areas that the Auditor General highlighted, we are managing any risks and we are still on track to deliver.

**The Convener:** All colleagues round the table have a copy of the *Official Report* of the committee's meeting three weeks ago, so some of them might ask questions based directly on that. However, I will stick to the Auditor General's report. She made recommendations for Revenue

Scotland in the summary, the second of which is that it should

"clarify what progress needs to be made to ensure the IT system to collect the devolved taxes will be in place by 1 April 2015, to inform its decision on whether to implement its contingency plans".

The introduction before paragraph 27 of the report says:

"There is a risk that the IT system for collecting the devolved taxes will not be fully implemented by 1 April 2015".

Paragraph 27 states:

"The timescale for implementing the new system is now very tight and there is a risk that"

it

"will not be in place in time."

I understood from the evidence that you gave the committee before that the system would, in effect, be completed by the end of January 2015 and you would have two months for testing. Is that still the timescale and is it a realistic timescale for eliminating "glitches", which is the word that you used in your previous evidence?

**Eleanor Emberson:** Absolutely. The system is undergoing internal testing at the moment. We will move to external-user testing in January with people who will eventually be users of the system. In my previous evidence, I referred in lay language to snagging being done in February and March, which will be a standstill period for what is called a restricted testing environment, in which a range of eventual users of the system will have a fully tested version of the system to—I am told that I am allowed to use this term—"play with" in order to ensure that everyone is confident that it is absolutely fine. We are testing internally now and will be testing externally in January, and we have every reason to suppose that we are on track to deliver for 1 April.

**The Convener:** I am pleased to hear that. The Auditor General highlights in paragraph 20 her view that

"A clear understanding between Revenue Scotland, RoS and SEPA about their respective roles and responsibilities ... has only recently been established."

Can you talk us through that a wee bit?

**Eleanor Emberson:** Certainly. I think that that point has interested the committee in the past. We took a deliberate approach from the very beginning for Registers of Scotland, Revenue Scotland and SEPA to work together to develop the plans for collecting the taxes. That involves all the elements, so we have worked together on how the processes should work, how we will do compliance and how we will manage communications with taxpayers and so on. As we

have got close to the end and as we understand what the processes look like and we know all the details of the communication plans and so on, that has allowed us to decide which of the bodies will do which element of work.

What we did not do was sit down at the beginning and say, "Right—why don't you do compliance and we'll do something else, and we can go away and work on those things?" That would have led to a position that was not optimal from a taxpayer's point of view.

We have been working on all this and considering how things would work from a taxpayer's point of view, so that the taxes are as easy as possible to pay and as hard as possible to avoid. We allocated roles and responsibilities near the end of the process once we were confident that we knew how we wanted it all to work.

John King or John Kenny might wish to add something.

11:30

**John Kenny (Scottish Environment Protection Agency):** We have had a positive collaborative working relationship. We have gone with the best person to do the best job, and the process has evolved from there. We have certainty and clarity on the role that we will have to undertake from 1 April.

**The Convener:** The Auditor General highlights in her report a number of concerns regarding staffing, which we touched on when you were before the committee three weeks ago. She refers at paragraph 16 to

"delays in recruiting to the tax administration programme division",

and states that

"there was no clear resourcing plan setting out the number, positions and grades of staff".

At paragraph 26, she states:

"the risk remains that Revenue Scotland will not fill all of the operational posts in line with its revised plans."

I was very concerned by the issues raised at paragraph 41, in which the Auditor General states:

"The Scottish Government's current assessment is that while it currently has enough skilled people in place to fulfil its responsibilities, it is dependent on a single member of staff and consequently there is a need to consider resilience as April 2016 approaches."

That relates to the Scottish rate of income tax, of course.

Is it the case that you are dependent for the whole structure on one individual? Will you talk us through some of the issues in relation to staffing?

**Eleanor Emberson:** Certainly. You are right that paragraph 41 refers to the Scottish rate of income tax, so the point does not relate to Revenue Scotland, ROS or SEPA, but we can say something about it if that would be helpful.

There are two elements to Revenue Scotland's staffing. There is the programme team, which has been working on the set-up of all the elements—the processes, the information technology, the technical guidance and the communications. We are now developing the operational team, which will run all this live.

The delays that the Auditor General highlighted, and the point about the resourcing plan at paragraph 16, relate to the programme team and the set-up. The Auditor General argues that we should have had more staff earlier in the set-up. With hindsight, I think that that would have been helpful, but I do not accept that it was "required", which was the Auditor General's language in a headline. If we had had more people in place sooner—very slightly sooner; perhaps a couple of months sooner—that would have made things go more smoothly, but it would not have materially changed the position that we are in today.

The operational staffing position has moved on significantly since the Auditor General's staff carried out their work in October. The First Minister updated Parliament on the matter last week, but I can give the committee more up-to-date figures, as of yesterday. Of the 40 operational staff, 21 have been recruited, and eight posts are going through the recruitment process. Three posts have interviews scheduled, and five are at a slightly earlier stage. That will leave us with 11 posts, which we will advertise as planned in January.

We do not need absolutely all 40 people in place to go live on 1 April 2015, but we are very confident that we will have all the staff that we need for that date, and we are aiming to have all 40 in place.

**The Convener:** To cut a long story short, your view is that things will happen as planned on 1 April and there will be no glitches in the collection of the devolved taxes.

**Eleanor Emberson:** That is certainly what we plan to achieve. We have explained all that to the committee, but we can look at the individual elements today.

The point about the Scottish rate of income tax is for my colleagues, but I recognise the reference, which is a little misleading. One member of staff is concentrating significantly on working with Her Majesty's Revenue and Customs on the Scottish rate of income tax. However, he has an entire finance team around him, with lots of other expertise to draw on, as well as access to other



colleagues and, until recently, my involvement. Technically, one person is leading that, but a lot of people can bring their expertise to it.

**The Convener:** I have one further question before I open the session out to my colleagues. Page 18 of the Auditor General's report contains recommendations on what Revenue Scotland should do. It says that Revenue Scotland should

"finalise its contingency plans and ensure that the points at which contingencies would be activated allow sufficient time for effective tax collection from 1 April 2015."

Has that been done?

**Eleanor Emberson:** Yes. We have done more work on our contingency plan and we know that we could invoke it around the end of February, if we need to, and be ready for 1 April.

**Gavin Brown:** I will focus on IT, but first I will ask about staffing, to follow on from your earlier answer. On Thursday 11 December, the First Minister said that 16 job offers had been accepted, five were going through the normal recruitment process and 14 posts would be advertised in January. Six days later, 21 staff are in place, eight offers have been made and 11 posts are being advertised in January. Have we appointed people before we have advertised posts? Can you explain the discrepancy?

**Eleanor Emberson:** Yes. The 21 staff relate to the 16 staff and five offers mentioned by the First Minister. The eight staff who are being recruited involve three posts for which interviews are scheduled and five more that are at an earlier stage in the recruitment process.

All that has happened is that we have moved a little faster on advertising some of the jobs. The First Minister highlighted 14 posts that were still to be advertised, but I am saying that we are now down to 11, because three posts have gone into the advert system. We planned to advertise 14 posts in January, but we have gone ahead with three of them slightly earlier.

**Gavin Brown:** Are you saying that we have advertised additional posts after Thursday and there are interviews lined up?

**Eleanor Emberson:** Yes.

**Gavin Brown:** Right.

Paragraph 32, on page 15 of the report, jumped out at me. It says:

"Due to the tight timescales, Revenue Scotland is prioritising the development of the part of the IT system that it will use to process tax returns. The public-facing part of the system through which people will submit their tax returns online will be developed after this, which may be after April 2015."

Please will you explain that?

**Eleanor Emberson:** That is not the current position. We carried out the system development in the order highlighted by the Auditor General. We built the back end of the system first—the bit that does the management, tracks cases and makes all the calculations—and now we need to connect that to what is called a public-facing portal. We will do that in January, as part of the user testing that I referred to. The Auditor General's staff noted the order in which we were doing things and said that something might not happen until after April, but it will now happen in January.

**Gavin Brown:** Let us take the two parts separately. First, would you describe the part that processes the tax returns as back end or front end?

**Eleanor Emberson:** That is back end.

**Gavin Brown:** Where are we with the back-end system?

**Eleanor Emberson:** I have seen a demo, as have others. Colleagues in Revenue Scotland are doing internal testing on the back end, as they have done for some time—we are iterating the testing, as one does. In January, all of that and the public-facing part will move to user testing involving external users. People who will be end users of the system, such as solicitors or those who work in their offices, will come in and help with the system testing.

**Gavin Brown:** I return to the back end. Is the system complete or close to complete, and are you now simply testing it?

**Eleanor Emberson:** I would never describe anything as complete until all the testing was complete, because that would not be proper. The main development work is done, which is why we are in the position to do testing and why I can give the committee some confidence that we will deliver for April.

**Gavin Brown:** You previously said that a first version of the back end will be tested internally, then a full version will come out. Is it just version 1 that is being tested at the moment or is it what you might have described previously as a full version?

**Eleanor Emberson:** We have been iterating the development, so we have had a version of the system and done tests. Things have been spotted and comments have been made. They have gone back to the developer, who has addressed the points and given us another release of the system, and we do all that again and again. The process has not been for us to get a release to test and then get another release; it has been more iterative than that. Does that help?

**Gavin Brown:** It helps. Are there no formal releases?

**Eleanor Emberson:** There are formal releases.

**Gavin Brown:** How many formal releases have there been?

**Eleanor Emberson:** We had a readiness release at the end of November, which was a formal release. Iterations have been going on but, to be honest, I would have to check the details of the plans before putting any wording around releases in the new year. External users will test the system in January and we aim to have a release at the end of January.

**Gavin Brown:** Forgive me for dwelling on this. You had an initial release of the back-end system. Has there been a second formal release of that system?

**Eleanor Emberson:** I hesitate to answer because of the language involved.

**Gavin Brown:** Sure. I am happy for you to hesitate, because I want to get to the bottom of the issue. I would prefer you to hesitate than to tell me the wrong thing. I am keen to explore the facts.

**Eleanor Emberson:** The fact is that we had the release that we were expecting at the end of November, and iterative testing is being done on that. We will do the further testing that we expect in January and we will have the release that we expect in the new year—well, we plan to have another release in the new year. I understand that, each time we go through a new iteration, that could be described as another release.

**Gavin Brown:** I understand that. The next release is planned for the new year. To be accurate on that, are you talking about early January or the end of January? Do you have a timescale?

**Eleanor Emberson:** If we are talking about formal points of release, the next formal one will be at the end of January, after we have done the testing involving external users. That is as I understand the situation but, if I have any of that wrong, I will write to the committee to correct it.

**Gavin Brown:** That is the back-end system, so let us move to the front end of the system, which users will interact with. When Audit Scotland's report was written, the Auditor General's opinion was that it could be after April 2015 before the front end was working formally. What is the current prediction from Revenue Scotland?

**Eleanor Emberson:** We expect to have that in January. There is not a lot to the front end. We have developed an online form and, when we go live, Revenue Scotland will see the same form as online users see. The online portal is about getting the back end into a position for external users. The front end is not a massive additional system in its own right. We also have a case management

system for Revenue Scotland staff to be sure that they are managing every stage of the tax collection process.

**Gavin Brown:** If the Auditor General or anyone else was to audit the IT system today, would they highlight any bits as a risk or say that there was a chance that those bits would not be ready for April?

**Eleanor Emberson:** If anyone looked at an IT system and said that there was absolutely no risk before the system was fully tested and live, that would be unusual. There is no unusual level of risk here; we think that we are completely on top of the development. We are managing the risks and doing the internal testing. We are also confident that the external testing will work and that we will be ready to go.

**Gavin Brown:** I take your point about the term "no risk". Of course nothing in life is risk free. If we look at all aspects of the IT system at present, is there any element about which an objective person would say that there is a reasonable risk or a strong possibility that it will not be ready by 1 April?

11:45

**Eleanor Emberson:** I do not believe so.

**Gavin Brown:** To go back to the Audit Scotland report, paragraph 35, which is on page 15, states:

"In recognition of the reducing time available between now and 1 April 2015 to establish the required IT systems, the IT implementation group is developing contingency plans."

My understanding from our previous evidence session on the issue was that you had the contingency plans just because you were super-cautious and you were taking a belt, braces and a piece of string approach. However, the report suggests that the reason for those plans being developed at this stage is that it is a response to the reducing time available. Is Audit Scotland's interpretation correct, or do you disagree with it?

**Eleanor Emberson:** We would have done the contingency planning anyway. We have to do that because, as we have just discussed, until an IT system is fully tested and live, there is always some level of risk that there might be a problem. No red flag has gone up that has led us to think that we suddenly have to do contingency planning—it was part of what we were always going to do.

**Gavin Brown:** That sounds as though you disagree. Audit Scotland specifically states that the contingency planning is

"In recognition of the reducing time available".

You disagree with that conclusion.

**Eleanor Emberson:** That is not my perception of the situation. We would have done the contingency planning anyway.

**Gavin Brown:** On contingency, the last time that you were at the committee, you talked about contingency being developed and said that you would make a decision on that in December. We are now in December. When will you take a decision that we need to implement the contingency plan or that we do not need to go near it?

**Eleanor Emberson:** We have refined our contingency plan considerably. On our first pass, we looked at a plan that might have had a 12-week lead time, which in effect would have meant that, by the end of December, we would have had to decide whether we needed to go into the contingency. We have done a lot of work on the plan and we now have a version that we could implement around the end of February, with a lead time of four weeks or so. Therefore, we do not need to make that decision today.

**Gavin Brown:** Last time, you talked about there being a few ambers and you said that you were “doing an assessment”. What is currently amber for the project that you are allowed to talk about publicly?

**Eleanor Emberson:** The last time, I talked to you about the aggregate reporting and I said that there were about two dozen indicators. I should correct myself, because I went away and counted them and found that there were three dozen indicators and some of them were amber.

Underneath all that, there are individual products, as we call them—individual things that we need to put in place. That might be a piece of guidance, the design of a process or something to do with staffing or whatever. There are 568 of those products and, when we did the assessment to which you refer, 27 were at amber. We had a programme board meeting yesterday, at which we heard that 17 are now at amber. The situation changes week to week. That takes me to the point that managing projects is not about having no risk; it is about managing risk and delivery. Every week, we reassess where we are on the delivery of all the individual elements. If we need to take action to bring something back on track, we do that.

**Gavin Brown:** Is there anything that the committee should know about that is not on track or where there is a potential risk of things not happening?

**Eleanor Emberson:** There is nothing that the committee should know about that we are not managing.

**Malcolm Chisholm:** I want to go slightly into the past but, before I do that, I have one question

on that issue, although Gavin Brown has covered it exhaustively. Gavin asked about paragraph 32 of the report in detail, and he quoted the sentence that states:

“The public-facing part of the system through which people will submit their tax returns online will be developed after this, which may be after April 2015.”

You said at the beginning that you checked the report for accuracy. Would you have challenged that at the time that it was raised with you? Would you not have told the Auditor General that the system would definitely be tested in January? How did the comment about April arise?

**Eleanor Emberson:** The word that is used is “may”. At the time that the Auditor General’s staff were doing the work on all this, they were looking at plans and they obviously took the view that there was some possibility that we would not deliver on plan and that that would happen. We can challenge factual things in the Audit Scotland report, but we cannot really change the Auditor General’s assessment of the position.

**Malcolm Chisholm:** Was it in your plan at that stage that all this would be tested externally in January?

**Eleanor Emberson:** Oh yes.

**Malcolm Chisholm:** I will go back to the past, which seemed to be the source of some of the concerns. I will stick with IT first. There is more than one reference to slippage on page 13 of the report. One sentence in paragraph 30 states:

“Revenue Scotland aimed to identify a supplier for the IT system by April 2014, but this took four months longer than planned”.

There is then a reference to advertising a tender in mid-June. Did the advertising and the decision about what kind of IT system was required and how to commission it slip in the way that the Auditor General suggests? If so, why?

**Eleanor Emberson:** It is helpful to look at exhibit 3 on page 14 of the report. There was a period between January and April when we were working with the Scottish Government’s internal IT team. We were strongly attracted to the idea of doing the IT development in-house for a variety of reasons, including value for money. We worked with the Scottish Government’s IT team so that it fully understood the system requirements that we had developed and so that we could assess whether it had the capability to develop the system. At the end of April, we came to the conclusion that that was not the best option—it was not, in fact, the lowest-risk option.

From the very end of April, when that decision was taken, we went out to tender within six weeks. We were out to tender in the middle of June and had the contract awarded by the middle of August.

We went out through an existing Scottish Government framework contract. We have a supplier that has already done work for the Scottish Government. I do not think that Audit Scotland would challenge the decision to use the external supplier, but we spent a period of time looking at an in-house option—we did so between January and April, which I think is the four months that the Auditor General is referring to.

**Malcolm Chisholm:** I think that that explains the reference to the four months. Thank you.

I want to move on to the staffing side of things. You have indicated where we are now, but I want to go back to the past. Page 12 of the report makes various references to slippage. It says:

“confirm job descriptions and grades by the beginning of October 2014 (originally August)”

and

“confirm job descriptions and grades by mid-October 2014 (originally September).”

Was there slippage in terms of decisions about staff and the advertising for staff? If so, why did that arise?

**Eleanor Emberson:** I do not think that there was slippage in terms of decision taking. Within a programme, there are rapidly changing environments. Plans are not something that you make and never revisit. During that period, we were thinking through our plans for staffing. At a very early stage—I think that I am going back well over a year—we had thought that we might have all the operational staff in for the end of October. When we looked at that, we thought, “It doesn’t make sense to have all those people in. What are we going to do with them?” We moved to a different phasing, and then we moved again. There is not a problem on the operational staffing side. We are on track to have the staff we need for 1 April. The fact that the plan has evolved is simply the natural thing that happens within a project.

**Malcolm Chisholm:** You have admitted that you would rather have had more programme team staff earlier. Is there any relationship between that staff shortage and some of the slippage in operational decision making?

**Eleanor Emberson:** No. We have had a well-staffed programme team for quite a lot of months now. All the relevant people were in post at the point that we were doing this. Having had more programme staff in sooner might have helped us to evolve our plans a little sooner. That would have been useful, but it would not have meant that we would have wound up with more operational staff in post sooner.

**Malcolm Chisholm:** You have said that you do not really need any contingency because you are

going to have the staff, but if you were short of operational staff, would it be possible for some of the programme people to stay longer, or are they doing completely different things? Are they not interchangeable, as it were?

**Eleanor Emberson:** A number of the programme staff are not interchangeable, but some would be. I have mentioned that we will have 11 staff left to recruit in the new year; we have prioritised filling the solicitor, tax specialist and accountant posts, while the last tranche of staff that we are coming to will have what I might call generic skills. If we were really struggling, I would be able to look around the whole of the Scottish Administration for staff.

**Malcolm Chisholm:** But why have you waited until January to recruit those 11 staff instead of advertising for them in November or whenever?

**Eleanor Emberson:** People have to sift and interview, and we have to have something for those people to do when they come in. It is simply a question of what work they will be doing and, indeed, who will actually undertake the recruitment, because we stagger the recruitment to ensure that we are not doing all the interviews in the same week.

**Malcolm Chisholm:** Thank you.

**The Convener:** I am sorry—I was just speaking to the clerk about this issue. Surely you can interview someone in November and not have them start until January or February. I do not understand why you would leave it so late, because I would have thought that such positions of expertise would be fairly few and far between and that not many people could fulfil such tasks. If you leave it to the last minute, the people in question might be doing other work and might not be available. I can understand why you might not want someone to start until relatively late in the process, but why would you not interview earlier to ensure that these people are available when you require them?

**Eleanor Emberson:** We have interviewed for the posts that we thought would be hardest to fill. As I mentioned—you might not have heard—we have pressed ahead and recruited people with tax expertise, a solicitor, an accountant and a statistician to help with performance monitoring. We did that on a risk basis, so we went ahead earliest with the staff who we thought might be the most challenging to secure, with the rest of the team coming in behind. I do not need absolutely all of the 40 to be in post for 1 April; we are aiming to bring them in in time for 1 April, but if some of those posts are not filled, it will not prevent us from going live.

**The Convener:** Thank you.

**Mark McDonald:** Most of the ground has already been covered, but I have to say that I remember that when I was a member of a local authority audit committee I was told that I needed to understand the difference between risk and likelihood. That has come through in the responses that have been made.

On the issue of staffing, I was not a member of the Finance Committee at the time, but I note from previous evidence-taking sessions that you stated in October that

“all key appointments”

would

“be in post by February 2015.”

Can you confirm that that will be the case?

**Eleanor Emberson:** Yes. I think that the key appointments are now actually in place.

**Mark McDonald:** That is fine, convener. That was the only question that I had, because committee members have pretty much covered everything else.

**The Convener:** That is not like you, Mark. Perhaps you need to go for a lie down after the meeting. [*Laughter.*]

**John Mason:** We have covered quite a lot of the ground, particularly with regard to paragraph 23 on page 12 of the Audit Scotland report and, indeed, the headline on that page, which refers to the

“risk that Revenue Scotland will not fill all of its operational posts”.

Malcolm Chisholm has already referred to the slippage—or the apparent slippage—highlighted in the two bullet points in paragraph 23.

12:00

**Eleanor Emberson:** We made the decision that we think makes the best sense in light of the business, so we hope that we have now made the best decision. The key thing for the committee to note is that 21 people have been identified, eight more posts are well in hand and we have only 11 still to fill. One can go backwards and forwards over plans, but the important thing is that we are going to have all the people in place.

**John Mason:** Audit Scotland says that you could have recruited people a bit earlier, but if you had done that and gone over your budget, it would have criticised you for recruiting people too early.

**Eleanor Emberson:** There is always that judgment to be made. The same is true on the point about the programme staff. If I had brought in more programme staff earlier, I would indeed have spent more money. We are always juggling

value for money and ensuring that we can deliver, and we think that we have a plan that works and that delivers value for money.

**John Mason:** The word “risk” has floated around quite a lot and you have said that there was no unusual level of risk. It seems to me that Audit Scotland throws the word “risk” around quite loosely. We have already talked about greens, ambers and reds, which are fairly broad spectrums. I do not know whether you have a risk register, but when you look at risk, do you narrow it down beyond that? There could be a 95 per cent risk or a 5 per cent risk that something is going to happen. Do you look at it that way?

**Eleanor Emberson:** Under the standard methodology, we look at the impact and the likelihood of risks. We ask what the impact would be if a risk were to materialise and how likely it is to happen. I am afraid that we do not measure them in percentages, but we have the usual high, medium and low categories on a five-point scale of risk.

**John Mason:** Do we know what Audit Scotland means when it talks about risk? Does Audit Scotland analyse risk or does it just use the word meaning that the risk could be 1 per cent or 99 per cent or anything in between?

**Eleanor Emberson:** You would have to ask the Auditor General how Audit Scotland evaluates risk. There is not a quantification of risk that I can see in the report. It talks about risks being higher or lower, but I am not aware of a scale.

**John Mason:** Paragraph 26 states:

“However, the risk remains that Revenue Scotland will not fill all of the operational posts in line with its revised plans.”

There is a risk that all the shops will be closed next week and I will not get my Christmas shopping done, but presumably that is quite a small risk.

**The Convener:** Do not forget my present.

**John Mason:** I think that you would accept that there is a risk, but what is the risk—or what was the risk—that Revenue Scotland will not fill all of the operational posts? Can you put a figure on it?

**Eleanor Emberson:** I can tell you now that the risk is significantly lower than it would have been at the time that Audit Scotland was looking at the issue, because we are two months further on and we have filled a lot of those posts. I do not think that I could put a figure on it for you, but I do not see it as a high risk now at all.

**John Mason:** If I said that it was a 10 per cent risk and it is now a 5 per cent risk, would you argue with that?

**Eleanor Emberson:** I would not argue, but it is a much lower risk now than it was, and I did not think that it was a high risk at the time.

**John Mason:** Thank you. That will do me.

**The Convener:** Mark McDonald is now desperate to come in.

**Mark McDonald:** It is just because we have gone back on to the area of risk. As I understand it, there are two types of risk, or two analyses of risk. One is the risk that something will not happen—in other words, the likelihood—and the other is the risk to the organisation if something happens. You distinguish risk in two ways, therefore, by looking at the risk that something will not happen and at the risk to the organisation if it does not happen. Do you make those distinctions in applying your reds, ambers and greens? The two are obviously not the same thing.

**Eleanor Emberson:** For any particular element of risk, we look at both the impact and the likelihood. Reds, ambers and greens are in effect a product of those two things. We are in danger of going a long way into project and programme management methodology, but we have a 1 to 5 score for likelihood and a 1 to 5 score for impact, we make our best assessment and we recognise that the levels change frequently, so we review the situation regularly—weekly or monthly. A risk with a low likelihood but a high impact might still appear to have a score on the risk register, because although you recognise that it is unlikely to happen you still need to be careful about it, because if it were to happen, it would have a high impact.

**Mark McDonald:** We do not have the Auditor General here, but it is not always clear from reading the report whether the risk refers to likelihood, impact or a combination of the two.

**Eleanor Emberson:** I think that you can assume that what the Auditor General is looking at here is risks that would have a high impact. If we did not have enough operational staff for 1 April or our IT was not ready and we did not have a good contingency plan, there would be a very big impact on our ability to collect the devolved taxes. However, we do not see those things as high likelihoods and we are managing them to manage down the likelihood—that is the way we go about all of this.

**Mark McDonald:** Okay. I am done now.

**Michael McMahon:** It is good to know that politicians on local authority audit committees and politicians round this table understand the difference between a risk and a likelihood. Do you think that the Auditor General would understand that?

**Eleanor Emberson:** Impact and likelihood are both elements of risk. I am sure that the Auditor General understands that, but you would have to speak to her to—

**Michael McMahon:** It is good to know that we are not debating a report compiled by someone who would not know what they were talking about.

In her report, the Auditor General says that you have been preparing for this for two years, but it does not look as though it is ready—that is the summary, from my reading of it. Do you think that Audit Scotland would have said that if it did not believe that that was the case?

**Eleanor Emberson:** No, of course not. I am sure that the Auditor General has presented a report that is her assessment of the facts that have been laid in front of her.

**Michael McMahon:** So when Audit Scotland says that not enough staff have been put in place early enough, you consider that to be an accurate assessment of the situation from its perspective.

**Eleanor Emberson:** Audit Scotland has looked at the staff that we had at each stage and it is saying that, in its judgment, there were not enough. I am saying that I think that it would have been better, if I had my time over again, to put more programme staff in place earlier, but I do not accept that they were required and I do not accept that that would have made a material difference to where we are now.

**Michael McMahon:** Was it entirely your decision that staff were not in place at the time when the study was undertaken?

**Eleanor Emberson:** The plans for recruitment were my decision. There were some delays in the programme staff recruitment that were not my decision. They were to do with whether we could get people with the right expertise at the time.

**Michael McMahon:** I am sure that you have a degree of autonomy to make those types of decisions, but were the Government ministers who are responsible for your office aware of that? Did they sanction it? Did they approve of your decision not to get the staff in at the time that the Auditor General thought was timeous?

**Eleanor Emberson:** I have not discussed staff recruitment with ministers at any point. I am clear on ministers' expectations. It is my job to make sure that I do all the things—staff the team, manage the plans and make it all work. That is my responsibility, not ministers' responsibility.

**Michael McMahon:** So no minister spoke to you about the preparedness of your department to do this.

**Eleanor Emberson:** Just as we provide reports to the committee, we provide updates to ministers

about our progress, but I have never had a conversation with a minister about my detailed staffing plans or how many staff I was recruiting at different stages.

**Michael McMahon:** When you were here in November, you said to the committee:

"There has been a lot of progress but there is nothing negative that I need to report."—[*Official Report, Finance Committee*, 26 November 2014; c 29.]

That seems strange. You must have known of Audit Scotland's report at that time, and known that the criticisms existed. Did you just ignore the criticisms when you said that to us?

**Eleanor Emberson:** There are two things. I said that in response to a question—I think it was from Gavin Brown—about what had happened since the written report that I provided to the committee in the middle of October. I provided you with a written update, and the question was, given that we were at the end of November, whether anything had happened in the interim that I needed to report. I said:

"There has been a lot of progress but there is nothing negative that I need to report."

I was aware that Audit Scotland was going to report, but I could not discuss that with the committee because that report was not in the public domain. I was aware that the Auditor General would be criticising some things that had happened at a much earlier stage in the programme and that she would have issues about risk. However, I stand by what I said to the committee. We are on track to deliver and we are managing the risks. I do not see a problem.

**Michael McMahon:** You have taken to task the point made in the report that only one member of staff is responsible for this. I understand your explanation for that, which is that other staff were available and part of the team. What else were those staff doing if they were not directly hands on, as the individual member of staff was? Were they deployed to other responsibilities at that time?

**Eleanor Emberson:** None of this relates to any of the Revenue Scotland teams. The point about a single member of staff in paragraph 41 relates to the Scottish rate of income tax and the member of staff it refers to works in one of the Scottish Government finance policy teams. He has a range of colleagues around him who work in Scottish Government finance, who do all the different things that one would expect, including finance policy, payments and professional accountancy. All those people have other jobs, but he can draw on their expertise.

**Michael McMahon:** What else would they have been doing other than their jobs?

**Eleanor Emberson:** They would not have been doing anything other than their jobs. Part of what the Scottish Government finance team is doing at the moment, collectively, is working with HMRC on the Scottish rate of income tax.

**Michael McMahon:** You explained that a decision to bring people in earlier would have increased the cost of staffing, but the overall costs have already risen by £2 million. You said that you were

"managing the project very tightly and are ensuring that it delivers what it needs to deliver and stays within budget."—[*Official Report, Finance Committee*, 26 November 2014; c 25.]

The project was already not within budget. How much more would it have gone up and how much more will it go up?

**Eleanor Emberson:** The cost has gone up by £1.7 million. How much it would have gone up if I had brought in more staff earlier would depend on which staff I had brought in and when I had done so.

I have no expectation that the cost will go up further. We now have a full programme team. As I reported to the committee before, I have scheduled the set-up team to continue in place for a number of months into 2015-16. I have given you my full estimate of what I think that it will cost in set-up and operation. I do not have any expectation that that £1.7 million will increase.

**Michael McMahon:** You have told us that you have a contingency plan and that, had it been necessary to put it in place before now, it could have been, but that it is more likely that it will not be required until February, if at all. What is the contingency? What is the plan?

**Eleanor Emberson:** When the IT system goes live, we will still be offering solicitors a paper tax return. We would prefer them to use the online system, but we have heard from the Law Society for Scotland and solicitors' representatives that not all solicitors are ready or willing to use an online system. We took a policy decision that we would both provide them with a paper form and build an online system. Our aim is that the system will be so attractive that eventually we will be able to move everyone online. The contingency plan is that we would use the paper form for all tax returns for a short period from 1 April until the IT was finalised, if absolutely required.

**Michael McMahon:** Will that contingency be considered to have been put in place only if all returns are done on paper?

**Eleanor Emberson:** We have to do certain things behind the scenes to ensure that we are ready to process that volume of paper returns, if that were to be the case. We would make an

active decision to invoke the contingency plan if we needed to do it.

**Michael McMahon:** How much have you projected will be done by paper? What is your expectation of the level of paper returns, regardless of whether there is a contingency?

**Eleanor Emberson:** It will be helpful if I bring in my colleague John King from ROS at this point, as ROS has experience of working with solicitors on online and paper registration.

12:15

**John King (Registers of Scotland):** The planning assumption was that 90 per cent of returns would be submitted online. The evidence for that is the percentage of returns that are currently submitted to HMRC through its e-filing system. The assumption is also based on the recent experience of ROS. A week past Monday, we launched four new IT systems to support the Land Registration etc (Scotland) Act 2012, a couple of which are voluntary electronic systems. We have seen a dramatic increase in solicitors' uptake of them, which we think bodes well for the assumption that 90 per cent of returns for LBTT will be submitted online.

**Michael McMahon:** Your expectation is that 90 per cent of solicitors want to file an online return. If 80 or 70 per cent make use of it, does that mean that the system was not ready?

**Eleanor Emberson:** No. Either the IT system will be there or it will not. If we have an IT system in place and only 85 per cent of people choose to use it, then only 85 per cent of them have chosen to use it—that is simply their choice. We will then work with them to encourage them to use the IT system.

**John King:** It has always been in the communications plan that, somewhere between January and March, a considerable degree of focus will be on explaining to solicitors what is involved in the new Land and Buildings Transactions Tax and in the mechanics of submitting a return, and on encouraging them to move to or stay with an electronic version of submission. Colleagues in Revenue Scotland have various roadshows planned to convey those messages to the solicitor community.

**Jean Urquhart:** As you have answered everything comprehensively, I have just a short question. On the budget and the overspend, was there any connection between the—for want of a better word—slippage of employment from your original plan and trying to save money? Perhaps I have not looked at it carefully enough, but, in other words, is the difference between the estimated budget and the greater amount spent in reality

related in any way to the criticisms in the Auditor General's report?

**Eleanor Emberson:** No, we have not deliberately delayed staff recruitment to try to save money. We have been very focused on what we need in the way of staffing in order to successfully deliver. Had we allowed budget to dominate delivery, we would not be overspending at all, but in fact we are completely focused on making sure that everything is in place for April.

There may have been an element in your question that I have not answered.

**Jean Urquhart:** What caused the increase in the budget that was not anticipated?

**Eleanor Emberson:** It is all staff, and it is all programme set-up staff. We brought in additional staff to make sure that we manage the programme and the IT project tightly and have people in place to do all the work that needs to be done to deliver for 1 April. To manage risk, we have brought in additional staff to make sure that we are on top of all that.

**Jean Urquhart:** Were you surprised by the Auditor General's report, or do you think that there were areas that she was right to highlight?

**Eleanor Emberson:** It was not a surprise to me by the time it was published, because I had spent a lot of time with her staff discussing findings and evidence. I have to say that I do not share her perception, but I have a perspective sitting within the programme and she has a different perspective.

**The Convener:** That concludes questions from colleagues around the table. I will ask a final question, which relates to the Auditor General's recommendation that

"Revenue Scotland needs to consider how to report on its performance in collecting devolved taxes".

Paragraph 60 notes

"Revenue Scotland is in the process of developing a performance reporting framework."

Can you give us information on how that is going forward?

**Eleanor Emberson:** We have a statistician who is doing a lot of work on that at the moment, for both internal reports and what we might report externally. One thing that she has done is go through the various discussions that there have been with committees and through other questions that have been asked publicly. She is trying to make sure that we map out a framework that addresses the sorts of questions that we anticipate that Audit Scotland, the Parliament and the public will be interested in.



However, I would be very much interested in taking the committee's view on that before we put a final framework in place. We would like to share something with you at some point and to test with you whether the performance reporting framework that we imagine having will meet your needs.

**The Convener:** That is very helpful. Jim Johnston has written that down while you were speaking.

If our witnesses do not have any further points that they wish to make to the committee, I thank them for their evidence today. I thank members for their questions today and indeed all year.

I wish all committee members and all staff a great Christmas and a happy new year.

*Meeting closed at 12:20.*



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