



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

FINANCE COMMITTEE

Wednesday 14 January 2015

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FINANCE COMMITTEE

2nd Meeting 2015, Session 4

CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

DEPUTY CONVENER

*John Mason (Glasgow Shettleston) (SNP)

COMMITTEE MEMBERS

*Richard Baker (North East Scotland) (Lab)

*Gavin Brown (Lothian) (Con)

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

*Mark McDonald (Aberdeen Donside) (SNP)

*Jean Urquhart (Highlands and Islands) (Ind)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Lynn Brown (Glasgow City Council)

Neil Ferguson (Scottish Government)

Councillor Kevin Keenan (Convention of Scottish Local Authorities)

John Swinney (Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament Finance Committee

Wednesday 14 January 2015

[The Convener opened the meeting at 09:40]

Interests

The Convener (Kenneth Gibson): Good morning and welcome to the second meeting in 2015 of the Finance Committee of the Scottish Parliament. I remind everyone present to please turn off any mobile phones, tablets or other electronic devices.

I welcome to the meeting and indeed to the committee our new member, Richard Baker, who has replaced his colleague Michael McMahon. I invite Richard to declare any interests that are relevant to the committee's remit.

Richard Baker (North East Scotland) (Lab): Thank you, convener. I simply draw members' attention to my entry in the register of interests as a member of Unite the union.

The Convener: Thank you for that. I remind Richard that the initiation ceremony will be at midnight tonight. *[Laughter.]*

Richard Baker: I am looking forward to that—super. I will just check my diary with Claire, but that should be fine.

Decision on Taking Business in Private

09:40

The Convener: The first item on the agenda is to decide whether to take item 7 in private. Are members agreed?

Members *indicated agreement.*

Community Charge Debt (Scotland) Bill: Stage 1

09:41

The Convener: Our next item is to take evidence on the Community Charge Debt (Scotland) Bill in two separate evidence sessions. We intended to begin with a panel of four witnesses, but one withdrew before today and two are late, which is why the meeting started 10 minutes later than was scheduled. However, I am delighted that Lynn Brown of Glasgow City Council is here. Given that the full brunt of the committee will be directed towards her, I encourage my colleagues to be gentle with her, as I certainly intend to be.

Members have copies of all the written evidence that we have received, including the submission from Glasgow City Council.

Without further ado, I will start with a few questions and then I will open up the session to colleagues round the table. I hope that other local authority colleagues will arrive before too long.

The Glasgow City Council submission is short but perfectly formed. It is less than one page, but there are some important points in it. In the response to the question

"What is your view on the purpose of the Bill and broadly, are you supportive of it?",

there seems to be what I would call in political parlance a body swerve on whether the council supports the bill. I would like a wee bit of clarification of that, first of all.

Lynn Brown (Glasgow City Council): Thank you, convener, and good morning to the committee. I understand that you all have copies of our submission.

Our priority, particularly over the past 15 years or so, has been to maximise our council tax collection levels. Our debt policy is geared to that, and it is also geared to what we call breaking the cycle of debt. You will have seen from the figures that are included in the information that our actual levels of community charge collection are relatively low because we are very much focused on collecting our council tax. That would be the issue for us.

The Convener: I am still not sure whether Glasgow City Council thinks that the bill is a good idea or not.

Lynn Brown: The council has not taken a formal position on that—through committee, for example. As I said, we are very much focused on helping the current taxpayers.

The Convener: Okay. Thank you for that.

We have been joined by Councillor Kevin Keenan of the Convention of Scottish Local Authorities and Gregory Colgan of Dundee City Council, both of whom were no doubt delayed because of the appalling weather conditions. Welcome to the committee.

The first question that I asked Lynn Brown was whether Glasgow City Council supports the bill, and you heard her response. What is COSLA's broad view? We do not have a written submission from COSLA, so I am keen to know that.

Councillor Kevin Keenan (Convention of Scottish Local Authorities): First, please accept my apology for being late. The weather has been severe in Dundee over the past few days. God usually just puts rays of sunshine over Dundee, as you all well know.

I suppose that COSLA's issue is that it does not particularly see the need for legislation. As regards the bill and the write-off of the debt as agreed, COSLA has some concerns about whether there are any additional consequences. Individuals may feel that they paid their tax in good faith and here we are, some years later, with individuals who did not pay having their debt written off. There is some concern about whether the bill would have any other consequences, which is why COSLA is not overly supportive of the need for legislation.

The Convener: Thank you for that.

Mr Colgan, in Dundee City Council's submission, you say:

"In communicating the Bill to the public it is important that this does not send out a message which is linked to non-payment of older Council Tax debt which is still being pursued. Dundee City Council has a strong track record of collecting prior years Council Tax."

Can you expand on that a wee bit and tell us what concerns you have?

09:45

Gregory Colgan (Dundee City Council): Reflecting the submission, the council's concern is that, should the bill go through, individuals will think that it is acceptable not to pay historical council tax debt and something similar may happen in the future.

With our current corporate debt policy, we aim to break the debt link. Our focus is on current council tax, with any arrangements then focusing on prior council tax and subsequently on community tax debt. However, we would hope that individuals would still pay and continue to work with the council to ensure that arrangements are fair, and we will work with them to recover council tax and break the links to future debt and poverty.

The Convener: In that regard, your comments are very similar to those of Glasgow City Council. One thing that I thought was interesting in Glasgow's written submission was the comment:

"Based on the figures for the City of Glasgow, the Council does not believe that the peak in voter registration recorded ahead of September 2014 Referendum can be attributed to people with Community Charge debt re-engaging after a quarter of a century."

Of course, that is important because it relates to one reason given for introducing this legislation. Ms Brown, can you give us a wee bit more information about Glasgow City Council's thinking on that and on what it believes was the reason for so many people engaging who had not been on the register for years?

Lynn Brown: We have made it a priority, particularly since 2009, to increase the register in Glasgow. For example, in 2009, 89 per cent of people who you would expect to be registered were registered; by September 2014, that figure was 97.4 per cent. Between September 2013 and September 2014, we had an increase of about 2.5 per cent—about 11,000 voters—and 10,000 of those voters were 16 to 17-year-olds. Therefore, it is our view that people were engaged in the process and were registering, even if they had community charge debt. For Glasgow, the figures show that the last big surge was really around the very high level of registration of 16 to 17-year-olds.

The Convener: Thank you. Councillor Keenan, you do not have a submission before us but we have a number of submissions from member organisations of COSLA. In one such submission, the director of finance for Highland Council commented on the potential for what he called "unintended consequences". Are there any unintended consequences that COSLA is concerned about with regard to the legislation?

Councillor Keenan: The unintended consequences include whether people will think that someone will come along and write off debt that they have at the moment. The answer that Mr Colgan just gave in relation to Dundee's concerns is very much about that as well. People are currently experiencing pressures on their home budgets and their living standards, and if some think that they can get away with not paying a bill, the chances are that they will try.

Therefore, the unintended consequences include the possibility that the legislation could affect current collection levels. We do not want those levels to get any worse, considering the financial pressures that local government is under at the moment.

The Convener: COSLA appears to have accepted a full financial settlement of £869,000, which was provided by the Scottish Government

on 21 November. Is that a fair settlement in your view?

Councillor Keenan: Based on the information that COSLA requested on the figures that came in, it is a fair settlement from COSLA's point of view. Those are the figures that were asked for and those were the figures that were achieved.

The Convener: Ms Brown, your submission says:

"It is our understanding that the calculation of the financial settlement reflects the amounts intimated to COSLA from individual councils as to the impact of the Bill."

I was surprised at that. Glasgow City Council is getting only 2.3 per cent of the settlement figure, but we find that 29.4 per cent of the amount of money that is owed is owed in Glasgow. That is £125 million, but the settlement figure is £20,000. What is Glasgow City Council's view? I was surprised that Glasgow seemed to be quite happy with the COSLA settlement figure.

Lynn Brown: We gave a figure for the city that reflects the payment arrangements that we have in place. I think that we get in about £2,000 to £3,000 a year for the community charge through existing payment arrangements. On the current payment arrangements, the amount now being set aside is between £10,000 and £20,000, I think, and COSLA went with the higher figure of £20,000.

As for the debt outstanding, our policy has been to focus on the council tax since it came in. When council tax came in, the level of community charge payment in Glasgow was about 70 per cent. The figure of £125 million that you have seen reflects 30 per cent non-payment over the period of the community charge.

We focused hard on getting our collection levels up. They were at 73 per cent in 1996, and the council tax collection level is up to 94 per cent now. As for the resources that are put into following up on community charge cases, that activity is really time consuming and costly. We have focused on the council tax and we have encouraged people to start paying tax again. A sort of process of non-payment had developed in Glasgow, and that has been reversed.

The Convener: Yes—I remember the "Pay up for Glasgow" campaign.

Councillor Keenan, the financial memorandum says:

"recovery of much of this debt is now prevented both by practical considerations and by the law of prescription."

How do you feel about that? Do you feel that we should really be drawing a line under the matter, or do you share the view of North Lanarkshire Council? It has said:

"The collecting authority, in this case Local Authorities, should be empowered to use all available information and means to seek collection".

Councillor Keenan: Individual authorities will continue to speak for themselves. COSLA is happy to accept the agreement as it stands. As we have said, we did not think that there was a need for legislation as there is a potential for unintended consequences, but in general terms people have been happy to accept the offer that was made.

The Convener: I have one final question before opening up the questioning to other members.

I return to the point about the settlement. Mr Colgan in Dundee is getting 35.1 per cent of the settlement figure, with only 2.6 per cent of the outstanding debt. How did you manage to wangle that, Mr Colgan?

Councillor Keenan: He sent me to negotiate it. *[Laughter.]*

Gregory Colgan: The figures that Dundee City Council provided to COSLA reflect the current arrangements that are in place for the community charge and the current income that the council receives from them. Those figures have reduced, but we still anticipate collecting around £60,000 a year over the next five years in relation to the community charge. Those arrangements are currently in place.

The Convener: We will now open up the evidence session. The next member to ask questions will be the deputy convener.

John Mason (Glasgow Shettleston) (SNP): I will follow up on that last point. It is interesting that Dundee City Council is getting quite a lot of money. Has that been constant throughout, or have you put in a lot of effort recently? Has that been through earnings arrestments? How is the money actually coming in?

Gregory Colgan: The value of income that we have received for the community charge has reduced over the past five years. In 2009-10 it was around £150,000; that has now reduced to £60,000. Those arrangements are on-going, and they mostly relate to people who are paying a sum of money towards the debt. There are very few arrangements that involve earnings arrestment.

John Mason: Ms Brown, why is Glasgow different? Did we try harder earlier? Are Glasgow people more reluctant to pay? Is there a difference?

Lynn Brown: Since 2004 we have taken in approximately £1 million in community charge payments. The amount has reduced in the past three to four years to around £2,000 to £3,000, because people have paid off their debts, although there is still some remaining. I think that the

difference is because we have focused on the council tax and on breaking the cycle of debt.

John Mason: Are those who are still paying coming in and paying in cash, or is the money coming out of their wages or benefits?

Lynn Brown: I do not have a breakdown of the detail on people's payment arrangements with me today, but I can provide it later.

John Mason: That is fine—I was just wondering.

Is the problem for Glasgow and Dundee—and for anywhere else, for that matter—that councils did not know where those people were? Were there people out there with a lot of money who could have been paying the charge, and who could now potentially be found as a result of voter registration? Alternatively, is the reality that most of the money is owed by people who have no money, which would mean that there is very little chance of them paying at all?

Does anyone want to answer that?

Councillor Keenan: The people you mention are potentially individuals who did not pay and who decided many years ago that they would take themselves off any voter registration list because they did not want to be tracked down and made to pay. They probably did not have the money to pay at the time. For individuals who were employed and had good prospects—owner-occupiers, for example—the scenario may have been different.

I know of individuals who said at the time that they would not pay but who paid up eventually. Those individuals are unhappy that a debt is being written off for someone else. That is another potential unintended consequence.

John Mason: I came through on the train this morning with someone who said that they had not paid to start with and then did pay, but they fully support cancelling the debt and feel that it is the right thing to do.

Would there have been a potential opportunity from new voters being registered to bring in a lot more money from the community charge, if that route had been pursued?

Councillor Keenan: It is hard to tell what type of voter is now turning up on the list. A breakdown of age groups would be helpful, but you asked Lynn Brown about that and she was unable to say which individuals have been turning up. Are the new voters individuals of a certain age group who have been away or off the electoral roll for 20-odd years, or are they 16-year-olds who are registering to vote for the first time? Those are the unknowns.

I do not have a breakdown of the detail that would suggest that the recent increase in voter registration is related to historical debts. People

may have wanted to see change and so they registered to vote, or perhaps the level of campaigning going on was so great that they felt that they wanted to be a part of it. Let us hope that such engagement continues.

Lynn Brown: As I said, voter registration has been increasing since 2009 when people still had to pay their community charge debts. In Glasgow, the increase was due to 16 and 17-year-olds registering to vote. I think that the difference in the referendum was the voter turnout, which was much higher, but the numbers of people registering to vote have been increasing regularly since 2009.

John Mason: As the convener mentioned, people could get into the habit of not paying charges and just hoping that they will go away eventually, and there could be a knock-on effect on payment of the council tax. I suppose the counter-argument would be that almost everybody—apart from Gavin Brown, obviously—thought that the poll tax was a bad idea, whereas people think that they can live with the council tax. Do people differentiate in that way, or is there a real danger that, if we go down the road of writing off debt, that will put people off paying their council tax?

Councillor Keenan: There are many changes coming in the direction of people's household budgets. Individuals on benefits have seen the introduction of a bedroom tax; there are many more pressures on individual households; and there are now food banks in this country.

There are many reasons to believe that people are struggling, which may cause them to say, "Well, the council tax might be one debt we can walk away from." That is why we believe that councils could face a level of consequential loss from writing off the debt. I would not like to see that happen, because a lot of vital services are delivered by councils. I would try to put that message out to people: "Please pay, because these are the services that the council delivers for you and your community."

John Mason: You might not be able to answer this but, when utility companies or shops, for example, pursue debt, do you know how long they go on pursuing it? Is it 20 years, or could it be longer? Do you have any idea about that? That is maybe an unfair question.

10:00

Councillor Keenan: Personally, I have been quite lucky and I do not have any great amount of debt that I know of. I am therefore probably the wrong person to ask, but I am sure that some organisations could get closer to giving you a good answer.

John Mason: Does anybody else have any idea, or should I assume that that is not your area of expertise?

Lynn Brown: In Glasgow, we spend about £3.5 million a year on financial advice through law centres, money advice and citizens advice bureaux. Our experience is that people do not like being in debt, as it causes mental health issues as well as other issues. That is why we invest in those services to support them. I cannot comment on the issue of utility companies and so on, but I know that, in Glasgow, getting into debt is not taken lightly.

Mark McDonald (Aberdeen Donside) (SNP): A comment was made about the possibility of a precedent being established in that, if the debt is written off, it could give the impression that other debts would be treated similarly. Council tax debt was referred to, for example.

The tables that have been provided to the committee by the Scottish Parliament information centre show that 10 local authorities have ceased collection of community charge debt. I presume that they have had to square that circle locally. Has any information been sought by local authorities or by COSLA from those councils on the impact that their local decisions to cease collection have had with regard to council tax debt and how they squared the circle and dealt with the problem that some of our witnesses have suggested?

Councillor Keenan: COSLA has not tried to gather information on the effect of decisions not to collect in an area. We respect the fact that local authorities make the decisions for their area that best suit the individuals that they represent. That is how we operate as an organisation.

Dundee City Council has always been among the councils in which council tax debt has a higher cost and it has always tried to pursue that debt. The press and some individuals in the area would put the council under pressure to ensure that it tried to gather outstanding debt.

I fully agree with Lynn Brown's comment that people do not like being in debt, as it adds another pressure on them. Local authorities do what they can to ensure that people do not build up debt. Unfortunately, some people do not engage, and it happens.

Mark McDonald: Do the other witnesses want to comment?

Lynn Brown: We have not contacted any other local authority on the matter.

Mark McDonald: Okay.

The figures on income from community charge collection that we have been provided with show

fairly dramatic tail-offs in some local authorities. Glasgow is the one that stands out, as the figure of £550,000 in 2003-04 fell to £2,000 in 2013-14. I want to explore that. We have heard about the costly process that is involved. Does Glasgow spend more on pursuing the community charge debt and administering its collection than it actually takes in annually?

Lynn Brown: We take in about £3,000 a year, but that is through repayment arrangements, so the administration cost is low. It sort of evens itself out. You mentioned the figures from 2003-04. That is when we decided to look at our debt policy and to focus on council tax and helping people to break the cycle of debt. Those figures reflect that approach.

Mark McDonald: I have been looking at the breakdowns of total uncollected community charge—the total sum that goes uncollected. Do local authorities hold a relevant figure for the likely recoverable community charge? I would imagine that some of the debt is held against people whose whereabouts are not known, so at present it is not debt that you could realistically say was recoverable. Does either Glasgow or Dundee hold figures on the total amount that is owed versus the total amount that you could reasonably expect to collect?

Lynn Brown: The way to show that would be through the accounts, with a provision for that collection. In 2003-04, we just had to write community charge debt down and focus on council tax, so we do not reflect that figure in our books.

Gregory Colgan: The same would apply for Dundee.

Mark McDonald: A number of submissions have referred to the existence of sporadic and informal payments, as opposed to formal payment arrangements with individuals in which you know that you are going to get the income. It is argued that there is the potential for individuals to arrive at the door of the council and say, “I am here to clear my community charge debt.” There is an argument that that should be factored into the way the settlement is calculated.

Do you see any realistic way that those payments could be calculated? Do you think that it is a method that ought to be used by the Scottish Government in the calculation of the settlement?

Gregory Colgan: For Dundee, as reflected in our submission, we believe the settlement to be fair. It would be extremely difficult, particularly for Dundee City Council, to estimate in any way what the likelihood would be of sporadic payments from individuals who may appear in the scenario that you have outlined.

Mark McDonald: Would that be the same for Glasgow?

Lynn Brown: Yes, that would be the same for Glasgow.

Jean Urquhart (Highlands and Islands) (Ind): I want to put the debt in the context of how it compares with other debts. I have been a councillor, and I know that at the end of the year there are other debts that are written off because the council has decided that, no matter how much money they throw at sheriff officers or anybody else, they are simply not going to be repaid.

In the context of outstanding debt that councils have, is the poll tax element massive? Is it the largest part of the debt—the biggest debt that is outstanding for councils?

Lynn Brown: Because it has been written out of the books, there are no figures on it sitting on the books. That is the question to ask with debt: can we get that money back? As I have said, it was written out of the books in Glasgow in 2003, so there are no comparisons as such. Although £125 million for non-payment of community charge for Glasgow is a significant figure, it is not on our books.

Jean Urquhart: Is that the same for most councils? Do we know from COSLA?

Gregory Colgan: Community charge debt is not sitting on the books of Dundee City Council. As our submission states, our focus is on council tax debt. To provide an analysis of the proportion that the community charge takes up in relation to other individual debts would be an extremely difficult task. Dundee's position is the same as that of Glasgow in that the debt is not reflected in the books.

Jean Urquhart: Can we fairly assume that that will be the case for every council—that as far as the only other accounts are concerned, the poll tax will have, in effect, been written off?

Lynn Brown: I cannot comment on other councils' books.

Jean Urquhart: I remember that one thing that was thrown up at the time—when there was a fear that, when people registered to vote, they would be chased up for poll tax—was the difference between England and Scotland, in that we seem to pursue debt for a longer time.

Do you feel that this issue merits legislation, or could there be some kind of amnesty that, put in context, might be more agreeable to the people who feel aggrieved because they think, “I was a good citizen and paid my bill, and look what happens to those who did not bother”?

Councillor Keenan: The fear is that that is where we get to. Local government is hard

pressed for finance. We want to maximise our income and, clearly, we will look to use other ways of maximising our income. If any kind of debt were to be written off, we would not want the wrong message to be sent out to people—our fear is that it would be.

It is an unknown at the moment; we will have to see how things pan out over time. If there is a reduction in the number of years for which people have to live with the consequence of holding the debt, the knowledge that it will fall off the end of the plate at some point will provide a goal for some individuals who might not wish to pay.

Jean Urquhart: I know that one or two of the submissions from councils say that the issue does not merit legislation. Do you have a view about that? Could we address the issue without legislation? Could the poll tax debt be written off in some other way?

Councillor Keenan: The agreement is there—councils have agreed to accept the deal with the Government. As far as I am concerned, the issue is forgotten. In relation to whether there was a need for legislation, COSLA was concerned that it was unnecessary; it certainly did not want any legislation that affected anything else. COSLA agreed to work with the Scottish Government to make sure that that would not happen, but consideration of the bill is perhaps an unnecessary use of parliamentary time.

Gavin Brown (Lothian) (Con): A number of people who have submitted written evidence have made the point that an effort should be made not to link the writing off of community charge debt with the payment of older council tax debt. In its submission, Dundee City Council says:

“it is important that this does not send out a message which is linked to non-payment of older Council Tax debt which is still being pursued.”

What has been the Government’s response on that issue?

Councillor Keenan: As a councillor, I am unaware of that; I am not sure whether there has been any response. We could check whether the director of finance has received anything.

Gavin Brown: So you are not aware of a response, although it is possible that one has been made. Has Dundee City Council received a formal response?

Gregory Colgan: I am not aware that the council has received any formal response.

Gavin Brown: I know that Glasgow City Council did not raise the issue in its submission, but are you aware of any response to that concern, which has been raised by a few councils?

Lynn Brown: As I understand it, that is partly why we are appearing before the committee—you will be able to assess the issue. My understanding is that that would be part of the Government’s response.

Gavin Brown: Mark McDonald referred to a paper that SPICe has given us. My point relates to page 16, if you have the document, but it does not matter too much if you do not. He asked how much of the debt that is outlined in the table on that page it would be realistic to recover.

I will ask a slightly different question, which is to do with prescription. Let us take the example of Dundee City Council, because a representative of that council is with us. According to the table, as at 31 March last year, uncollected community charge for that council stood at just over £11 million. You are not sure how much of that is recoverable; that is fair enough. I would like to know whether some of that £11 million is invalid because of prescription or whether that is the figure once the stuff that has fallen because of prescription has been ignored. Regardless of whether it is realistic to collect the £11 million, is that the amount that is legally due, or has prescription meant that the £11 million should be reduced? Do you know about that?

Gregory Colgan: For Dundee City Council, the £11 million figure reflects the value of what remained uncollected at the end of March 2014. None of that debt has prescribed, because the council decided to warrant that debt, so all that debt is still collectable under a valid summary warrant.

Gavin Brown: Is it the council’s position that, each year, you would suggest that a certain amount has prescribed, so it should not be included in the total figure?

10:15

Gregory Colgan: It would be difficult to determine that value, because none of the debt at present is prescribed. If an individual made contact with us, the summary warrant would start from that point.

Gavin Brown: So it is 20 years of uninterrupted acknowledgement. Is that the same for Glasgow?

Lynn Brown: Yes.

Gavin Brown: This process has happened fairly swiftly. I think that the first public pronouncement was on 2 October and we are now just in advance of the stage 1 report. What engagement has there been with the Government about the bill’s objectives? There was no formal consultation, but the Government says in the policy memorandum and the explanatory notes that there has been quite a lot of engagement. What has been the

nature of that engagement and what depth of discussions has the Government had with COSLA or individual councils?

Councillor Keenan: This meeting has taken longer than the conversation to reach an agreement and come up with a settlement did. The First Minister announced what he was going to do, and COSLA was broadly in agreement. Individual authorities were canvassed about what the debt is. There was then a meeting with Derek Mackay and his officers, and with David O'Neill, the president of COSLA, and I and our officers, at which we agreed the settlement figures on what individual councils thought that the debt was, based on the criteria that they were asked for. The conversation with the Government has not been enormous. It has been accepted that the approach is the direction of travel.

Gavin Brown: You said that it took a fairly short time—a shorter time than this meeting—to agree the amount. What discussion took place with the Government on the policy objectives and potential unforeseen consequences, some of which have come out today?

Councillor Keenan: It seemed to be accepted that, if there was an unforeseen consequence, we would be back round the table to have some negotiation on the way forward and that, if there was a negative effect on the collection of council tax, we would be back looking for support from the Government to make sure that we could pay our bills.

Gavin Brown: The Government has in effect underwritten that.

Councillor Keenan: I believe that the agreement was that we would get back round the table should that happen. We made the point that individuals and groups might well say, "We paid in good faith. Where's our discount? Are you giving us some money back?" We will wait and see whether such things happen. There has been noise in the press, but I am not sure that anything has been presented to councils yet.

Gavin Brown: Did the councils in Glasgow and Dundee have a similar level of engagement with the Government or was it all done through COSLA?

Lynn Brown: To my knowledge, it was done through COSLA.

Gregory Colgan: To my knowledge, it was all done through COSLA.

Gavin Brown: Dundee City Council is not unhappy with the numbers as such, as the convener said. A point that came through in some of the submissions—it did not come out in Dundee's submission, but you might wish to comment on it—is that the amounts that have

been agreed reflect the arrangements at the time of the information being given. Some people—not all, of course—have said that, although those were the arrangements, because of information that they now have from the electoral roll, they could have collected a higher amount. They do not put figures on that, but they say that they could have collected more and that the figures should therefore be increased to reflect that.

Do COSLA and the councils that are represented here have a view on that? If the bill had not been introduced, could arrangements have been set up to increase the amounts collected?

Lynn Brown: As I said, our electoral roll numbers have been increasing since 2009. The major increase was from 16 and 17-year-olds, who would not be impacted by the bill, so we do not see the link.

Gavin Brown: Dundee's collection rate was relatively high anyway. Was there scope for greater collection levels based on the electoral roll, or was that de minimis?

Gregory Colgan: Dundee did not see any scope for increasing the collection of the community charge with electoral register information.

Councillor Keenan: Some councils intimated to COSLA that there were other ways through which they were achieving an income, albeit that it might not have been enormous. The figures that COSLA dealt with were based on the criteria that we were asked for and the information that was gathered. I am not sure whether individual councillors or councils are overly unhappy, because it was not a debt that individuals had agreed to pay and councils were not sitting with other means of pursuing the debt that had not been accounted for.

Richard Baker: I turn briefly to the process issue that Gavin Brown raised. Councillor Keenan said that there have been questions about whether legislation is the right way to progress the policy, whatever its merits are. Was COSLA consulted before the Scottish Government announced that it would introduce the bill?

Councillor Keenan: I think that five minutes before the announcement was made—or maybe five minutes after it was made—COSLA received a phone call to say that the bill was likely to be introduced. There was no consultation about whether that was the direction of travel in which the Scottish Government or COSLA felt that we needed to go.

Richard Baker: I should say for the record that, whatever the merits of the policy are, at a consultation level that approach is deeply unsatisfactory.

I return to the graphs and tables that we have on financial data. Mark McDonald made the point that a number of local authorities undertook quite a lot of debt collection from 2003 to 2010 and after that collection rates fell off quickly. Is it fair to say that that was because of practical issues rather than policy decisions by councils—of whatever political complexion—not to collect the debt, or was it because of policy decisions? Do you have an overview of the main driver for why councils stopped collecting debts to the extent that they had done so?

Gregory Colgan: From Dundee's perspective and to my knowledge, the main driver was a change to a corporate approach to recovery, which focused the process on breaking the debt cycle and focused payments and arrangements on current-year payments. In addition, arrangements that had been in place for the community charge might have ended.

Richard Baker: So the driver was collecting or dealing with debt in a different way, rather than giving up on chasing the debt.

Gregory Colgan: Yes—that is my assumption.

Richard Baker: How many local authorities have been using information from the electoral register to chase up outstanding community charge debts? Has that been happening routinely? Have many local authorities been doing that, or did that issue come up just with the referendum?

Councillor Keenan: I am not sure whether any authorities have been using the electoral register.

Lynn Brown: We have not been doing that in Glasgow, but I cannot comment on other councils.

Richard Baker: Glasgow has not been using that information to collect community charge debt.

Lynn Brown: No.

Richard Baker: I presume that the vast majority of local authorities have not been using electoral registration information as part of their policy on pursuing corporate debt.

Lynn Brown: I assume that that is the case, because the figures that have been produced show that quite a lot of councils have stopped pursuing the debt.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I had not heard of the law of prescription until this subject arose and I am not entirely sure whether I totally understand how it works. Gavin Brown has covered some of this, but is it true that the figures that have been presented all represent debt that could legally be collected and that no amount of that is covered by the law of prescription?

Councillor Keenan: From Dundee's point of view, Greg Colgan suggested that the number was a five-year figure on the basis of the current level that we are collecting and the agreements that are in place. When we had the discussion with Derek Mackay, I was surprised that Dundee looked for only £300,000. I thought that it would look for a lot more.

Having had discussions with finance officers and the director of finance, I understand how that figure was reached. However, I accept that over the time period the debt will be finished for some. Given the length of time involved, it becomes difficult to accept that the level will be the same year on year.

Malcolm Chisholm: I might be displaying my ignorance of the law of prescription but, if somebody disappeared from the electoral register in 1991 and suddenly appeared again in 2014, would it be possible to recover the debt from them? If no approach had been made to them during that time because they had disappeared from the register, would that be covered by the law of prescription? Am I misunderstanding it?

Gregory Colgan: To my knowledge, the position would depend on when a summary warrant was taken out and whether there had been contact from the date when the summary warrant was granted in that 20-year period.

Malcolm Chisholm: It would be a 23-year period.

Gregory Colgan: The position would depend on whether debts had been rewarranted—some might have been.

Malcolm Chisholm: People talked about this issue when the bill was introduced, but I wonder whether it is in practice relevant to the debate. Should we just forget about it?

Councillor Keenan: If someone has been missing from the register for 23 years and has made no contact with the council whatsoever, and if no kind of warrant has been in place, the chances of pursuing the debt are such that it will not happen.

Malcolm Chisholm: In the discussion about the bill, the law of prescription has got mixed up in some people's minds with the situation in England, where I understand that debts are written off after 10 years. I think that the previous Labour Government brought in that provision, but I do not remember what the reason for it was. That involved England-only legislation, so I had no reason to know. Does anybody see any virtue in our copying the English approach of having a time limit for all debt that is owed to councils?

Councillor Keenan: I would see a benefit in that if the Scottish Government was going to

stump up the money, but I am not sure that the Government has the finance, even with the underspend, to make that happen.

The Convener: One of my jobs as convener is to play a kind of sweeper role and ask any questions that my colleagues around the table might not have asked, so I have a couple of questions, although most of my questions will be for the cabinet secretary. First, I will ask about the still-outstanding £425.3 million that we keep hearing about. Is that a cash figure or has it been increased to take account of inflation over the years? Is it the actual sum of money that is owed? Do you know what the position is?

Councillor Keenan: I will pass that to the finance people.

Lynn Brown: I understand that the community charge figure is made up of a number of things, including surcharges, and that the £425.3 million reflects the total cash that would be due at the date when the figure was given.

The Convener: That is my understanding as well. I just wanted clarification.

How real is the debt? Over the 20-odd years, a lot of the people who will have owed the money will have passed away, emigrated or moved to other parts of the United Kingdom. How much of the debt is real in terms of being recoverable from people who are still alive and living in a Scottish local authority area? Does Kevin Keenan know whether COSLA has made any assessment of that?

Councillor Keenan: I do not think that there is any assessment. Councils have acted differently. Dundee City Council has kept a focus on the debt, but there is no reason to believe that other councils could not have a similar figure to that for Dundee, especially if they took into account areas of multiple deprivation. I would have expected Glasgow to ask for a much higher figure than that for which Dundee has agreed to settle.

The Convener: Dundee is bringing in only just over 5 per cent of what is owed, so it is not really big bucks if we think about the money that is allegedly owed on paper. As I said, somebody might have died in 1995 but still be classed as owing a debt.

Do you know how much is being spent on collection at the moment? For example, how much is Dundee spending to collect the £60,000? It is an interesting point. A total of £327,000 was collected in 2013-14, but how much was spent on collecting that? The cost of collecting must have a significant impact, given that 10 local authorities have decided not to bother collecting the debt. How much is it costing to collect?

Gregory Colgan: I do not have an exact figure for the cost of collecting the community charge. The figure is not high, but some resource goes into collecting the debt. It is estimated that £60,000 will be collected this year. I do not have the exact figure for the cost with me.

10:30

The Convener: I appreciate what Lynn Brown said about Glasgow focusing on ensuring that the council tax is paid, but is the cost of pursuit one reason why Glasgow is not really pursuing the debt?

Lynn Brown: The reason is a mixture of the cost and the practicality, given the time. The arrangements that we have in place sort of run themselves. The cost is minimal.

The Convener: Does Kevin Keenan have an overall ballpark figure for the cost per pound that is brought in?

Councillor Keenan: I very much doubt whether any council has an army of individuals who are focused solely on trying to bring this money in. If that was the case in Dundee, I as a local councillor would be asking why we had that. We would have forgotten about the collection a long time ago if it cost an arm and a leg.

We have a number of people who work in debt recovery. We have a number of individuals who go out and support people and who try to get them out of debt and guide them through welfare reform. We have welfare rights officers, Citizens Advice Scotland and a number of other agencies in the city and, like other local authorities, we have focused on guiding people through debt, getting them out of it and looking for ways to maximise their income, which is important as well.

We do not have an army of people in local government focusing on collecting a debt that is 20-odd years old. Agreements are in place and money trickles in, albeit that it is a small amount.

The Convener: I am about to draw the session to a close. Do you have any further points that you want to bring to the committee's attention?

Lynn Brown: No.

Councillor Keenan: No.

Gregory Colgan: No.

The Convener: You are all happy. Thank you for coming today, particularly given the appalling weather. We really appreciate your coming to the committee, so thank you very much.

I suspend the meeting until 10.40 to allow members a natural break and to allow a changeover of witnesses.

10:32

Meeting suspended.

10:41

On resuming—

The Convener: We continue our consideration of the Community Charge Debt (Scotland) Bill by taking evidence from John Swinney, Cabinet Secretary for Finance, Constitution and Economy. The cabinet secretary is accompanied by Scottish Government officials Jenny Brough, Graham Owenson, Laura Barrie and Colin Brown. I welcome our witnesses to today's meeting and invite the cabinet secretary to make an opening statement.

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): Thank you, convener. On 2 October 2014, the former First Minister announced the Government's intention to introduce legislation to ensure that councils can take no further action to recover ancient community charge or poll tax debts. With the co-operation of the parliamentary authorities we have been able to bring forward legislation on an expedited timetable so that it can be in force for the start of the next financial year. As a result, our proposals have not been subject to full public consultation, but we have consulted COSLA and individual local authorities, which are the only bodies that could be adversely affected by our proposals. Informed by that consultation, the financial settlement that the Scottish Government will make to local authorities in the winding up of community charge debt collection will reflect the small amount of income that will be foregone by authorities as a result of the policy.

Around £425 million of community charge was not collected in the four years that the charge operated in Scotland. Almost all of that £425 million can no longer be collected. More than 20 years have passed since the community charge was abolished and replaced with the council tax. Many people have moved home, moved away from Scotland, got married, changed their name or are—sadly—deceased and cannot now be traced or linked to a debt. Even if a person could be traced, if no attempt had been made to recover outstanding arrears from a debtor within the last 20 years, the local authority cannot pursue the debt any further.

In the last financial year, 2013-14, those authorities that are still collecting community charge debts collected a total of £327,000. Projecting the declining rate of collection forward, we can easily see a point at which the costs of collecting are greater than the sums collected. Local authorities tell us that the total amount that

they can recover under existing recovery arrangements is £869,000.

For years after the abolition of the community charge, collection rates for the community charge and the council tax that replaced it were lower than they were for the domestic rates that the community charge replaced. I can understand that there may be a concern that this bill may have a similar effect. However, people objected to the community charge because it was a tax that bore no relation to what people could afford to pay. Council tax liability is linked to ability to pay through the council tax reduction scheme, which supports those on low incomes in meeting their council tax liability.

Those people who are still paying off community charge debt include some of the poorest and most vulnerable in our community. They were unable to pay at the time and are now paying very small sums towards arrears every week, or even having them deducted from social security benefits. In some cases, those benefits may be their only source of income.

More than 20 years after the community charge was abolished, it could be many years yet before some debts are cleared. Furthermore, the referendum on independence inspired record numbers of people to register to vote, many of whom had not voted for decades and some who had never voted before. We do not want people to fear being on the electoral registers because of decades-old debts from discredited legislation, which cannot in all practicality be collected. The bill will help to avoid that and ensure that everyone's voice continues to be heard.

Each local authority that is still collecting community charge debt will receive as part of its settlement what it would have collected if its outstanding recovery arrangements had continued. Local authorities will not be compensated for the £425 million that is now uncollectable.

The bill is one step that the Scottish Government is taking to make local taxation fairer. The independent commission that we will establish to examine fairer alternatives to the current system of council tax is another. Meanwhile, we should consign the poll tax to history and extinguish any remaining liability for a disgraced and defunct tax.

10:45

The Convener: Thank you for that opening statement. You have been to the Finance Committee on countless occasions, so you know the drill. I will ask the opening questions and then we shall move around the table.

Let us start at the beginning, with the policy objectives of the bill, which you touched on. The policy memorandum states:

"It will ensure, following recent high levels of democratic engagement in Scotland, that the electoral registers are not used to pursue historic arrears of community charge, as well as ending ongoing repayment arrangements which are already in place."

The local authority representatives who were here before, including representatives of COSLA, Glasgow City Council and Dundee City Council, said that they did not actually use those systems to collect the tax. Is your view that it is a perception by people, rather than a reality, that electoral registers are used to collect that ancient tax?

John Swinney: Shortly after the independence referendum, comments were made by local authority leaders to the effect that they intended to use the higher level of registration that was part of the product and process of the referendum to try to collect further historical poll tax arrears. That was an indication of the intentions of certain local authority leaders.

The Convener: Ten local authorities have stopped pursuing these debts and the COSLA view is that legislation is not necessary. Do you have any information about why those local authorities stopped collecting? Did they think that it was costing more than the tax was bringing in? What assessment has been made about the cost effectiveness of continued collection?

John Swinney: Some of the sums of money that remain to be collected at individual local authority level are very small. For example, at Argyll and Bute Council, there is £63 to be collected. I think that we can all apply common sense and realise that the pursuit of £63 in one historical poll tax arrear will incur recurring costs to ensure that it is collected. The other authorities that are not collecting have obviously come to the conclusion that there is no worthwhile or legitimate area of activity that can be pursued to take that forward.

The Convener: However, Dundee City Council seems to be able to collect about a fifth of all the poll tax arrears that exist out there. Is there any reason why it is different from other local authorities?

John Swinney: The explanation that I have seen from Dundee City Council is that, when it collects arrears from individuals, it allocates them against more recent council tax debt. Essentially, it is making good council tax payments with some of the arrears that are being collected, rather than allocating them against historical poll tax arrears for which they still have a connection and ability to

collect. Dundee City Council's approach has a different focus compared with other authorities.

The Convener: Do you have any figures for the cost of bringing in the £327,000 that was brought in in 2013-14 by the local authorities that are still collecting? COSLA did not seem to know.

John Swinney: I have no costs on that.

The Convener: In your opening statement, you mentioned consultation. North Lanarkshire Council said that it was

"incongruous that a Bill is considered necessary as a result of the '... high levels of democratic engagement ...' but the Bill itself will not be subject to a formal public consultation."

You touched on that and explained it in a way. North Lanarkshire Council's submission also says:

"How are the views of the public, the majority of whom have made payment of their Community Charge liability, to be understood."

John Swinney: I accept that we have not made the arrangements that we habitually make for consultation. The Government decided to act because—to return to my response to one of the convener's earlier questions—we were concerned that an appetite had been expressed among certain local authority leaders for using the information that was gathered from voter registration for the independence referendum to reactivate the pursuit of many of the outstanding arrears.

We felt that that sat uncomfortably with what I believe was a wide appreciation throughout the country for the upsurge in democratic participation during the referendum, which was supported and complimented across the political spectrum. We felt that it would be a rather strange conclusion to that democratic process to use the information that had been gathered to pursue historical debts from a tax that is discredited and which has not been operational in Scotland for more than 20 years.

We wanted to do two things. We wanted to act expeditiously to address that point, which is why we have followed a shorter consultation process. Of course, the organisations that would potentially suffer a negative financial impact as a consequence have been consulted during the process. We also wanted to make it crystal clear that local authorities were absolved of any statutory obligation to collect poll tax debt, which, until this legislation is passed, remains in place.

The Convener: I imagine that most—if not all—MSPs have, like me, received a number of communications from constituents who have said, in effect, "What about those who paid at the time?"

A submission from an individual called John Nellis states:

"If the Scottish Government is determined to write off this debt, will they then reimburse the millions of law-abiding people who for many years paid their Community Charge, even though they did not agree with it in principle?"

Similar concerns have been expressed frequently, including by East Ayrshire Council.

Will you comment on that? We are all getting correspondence about it. I have not had anyone tell me what a great idea the bill is, but I have had plenty of folk writing to me in the terms I have just described.

John Swinney: I acknowledge your point, convener—I have received letters from my constituents expressing exactly the same point.

We are dealing with a situation in which a tax was the subject of significant public disquiet at the time of its implementation, and was very short lived. That tax functioned for only four years, which demonstrated its unsustainability as a particular local tax. Action was taken more than 20 years ago to address the inadequacies of the poll tax and to abolish it.

We have given a reasonable length of time and opportunity for historical debts to be collected, and we are now reaching the point at which 10 local authorities in certain parts of the country have voluntarily decided not to collect any more of those debts. They have essentially taken the decision for which the Government now proposes to legislate.

We have reached a pragmatic point at which we must all recognise that the tax has entirely run its course. The collection of the remaining and outstanding elements of the tax that could be collected would now involve all the practical issues that the convener has raised in questions, such as the additional cost of collection and the disproportionate cost in relation to the sums that are collected.

None of that, of course, detracts from the clear view that I and the Government hold, and which is implicit in all the legislation that we introduce, that people should properly pay taxes for which they are liable. That is our message on the council tax, and on the taxes—the land and buildings transaction tax and the Scottish landfill tax—for which we will soon be responsible.

The Convener: I understand your point of view. The quotation from East Ayrshire Council that I should have used is:

"It is a difficult argument to have with an individual who feels aggrieved that they have paid (and in some cases placed themselves in considerable financial hardship to do so), when others are now being 'excused' of their obligations."

That is sometimes an issue for people on the local authority front line.

Others might explore that further, but I want to make one more point and then give colleagues round the table a chance to make their points. It relates to the comments by the director of finance at the Highland Council, who is

"not supportive of the Bill".

He states:

"local authorities are required, by law, to take all legal means at their disposal to collect tax due."

He raises the issue of unintended consequences. You have touched on the fact that you want everyone to continue to pay the council tax. Despite what the Government says, the director of finance points out:

"The legislation may leave the impression that if you avoid paying debt long enough ... it will eventually be written-off."

He says that the timing of the bill and the setting up of the council tax commission are

"very worrying in terms of the possible negative impacts on future Council Tax collection levels",

and that the bill will introduce "avoidable risk".

John Swinney: The fundamental difference between the issue that we are discussing and the council tax is that the council tax is a live tax and the poll tax is a dead tax. That is why there is no similarity between the two.

My response to the point that was made by the Highland Council's director of finance is that the poll tax is a dead tax. We are pursuing historical liabilities, and we can see from the data that the amount collected is petering out year by year. Ten years ago in 2004-05, £3,916,000 was collected in poll tax arrears whereas, in the most recent financial year, the figure was £327,000. It is clear that it is petering out and that disproportionate resources are being used on collection. Crucially, the poll tax is a dead tax and is no longer in place, whereas the council tax is a live tax and people have obligations to pay it. I agree unreservedly on the necessity for individuals to pay their council tax.

The collection rate for the poll tax was approximately 88.4 per cent. The in-year collection rate for the council tax is 95.2 per cent. That is for the immediate year in which the liability arises, and the expectation is that in excess of 97 per cent of council tax will be collected once follow-up mechanisms are used in short order to ensure collection. The pattern of collection capability between the council tax and the dead poll tax is the strongest reassurance that can be offered to the director of finance of the Highland Council.

The Convener: Is the issue that he raised not one of public perception, though? Regardless of the political views that you have expressed about

one tax or another, people might feel, "Hold on a second—that was written off and the same might happen if I hang on long enough." People might still be pursued just as actively for the council tax, but there might be more resistance to paying it, which will impact on council tax collection figures. A number of local authorities have made that point to us.

John Swinney: The difference is easily expressed and made clear: it is the difference between a dead tax and a live tax. That is the point. We are not dealing with arrears that crystallised in the past month or even 12 months; we are dealing with arrears that crystallised 20 years ago and with the very end of the line of that particular tax.

An individual who does not pay their council tax is—certainly in my experience in the locality that I represent—pursued assiduously at a number of levels. One level is to ensure that any financial advice that should be available to those in financial hardship is made available to that individual. If someone has a payment problem with the council tax, the local authority will be intent on finding out whether they are entitled to a council tax reduction or some other form of support. If not, they are pursued for collection and the collection rates that I have just talked about give us confidence that local authorities have those mechanisms in place.

11:00

The Convener: I was going to stop at this point but you have prompted me to ask another question. You talked about live and dead taxes, but if the Scottish Government replaced the council tax with the local income tax, some people might class the council tax as a dead tax. How would your argument hold water if we were to move to another taxation system after the next Scottish elections and if a Scottish National Party Government is elected?

John Swinney: The council tax is a live tax; we pay it today. A poll tax demand was last issued to anybody in Scotland more than 20 years ago. The two are not comparable. They are completely different concepts.

As I have said on the point about a replacement for the council tax, council tax collection rates are upward of 97 per cent so the performance of local authorities in collecting the tax is high and significantly stronger than it was at any stage of the community charge, which has been dead for 20 years.

The Convener: Thank you. I will now let colleagues in.

John Mason: You have made the point that one of the arguments for the bill is that we do not want councils to waste money on collecting very little money. Is there evidence that councils are spending a lot of money in that way? We got the impression from Glasgow and Dundee that their collection costs are quite minimal.

John Swinney: Some councils are not spending any money at all because they have stopped collecting the arrears. That is the end of the story for 10 local authorities.

There will be costs involved in collecting the remaining outstanding arrears, but some of those costs will have been acquired over time by the putting in place of payment arrangements that will now be running their course.

John Mason: If we do not do anything, do you think that the figure of 10 local authorities will just drift upwards until it gets to 32?

John Swinney: Yes. I should probably say that there will still be a statutory obligation on local authorities to collect. The point of the bill is to absolve local authorities of that statutory obligation and, as I said to COSLA, I would have thought that local government would welcome that.

John Mason: I do not know whether you can answer this, but I am guessing that, although the vast majority of the arrears are just not being paid at all, there will be people who pay, say, a pound a week who might live in poverty but who are trying to be honest by trying to pay their arrears.

John Swinney: Small sums of money are being paid. In 2013-14, Aberdeenshire Council raised £1,000, as did Moray Council and Inverclyde Council. Individuals are paying small sums of money.

John Mason: I asked the councils whether they knew for how long other organisations pursue debt, and they did not. Can you give us any idea about that so that we have something to compare with the 20-year limit? Do we know for how long a utility company or a shop, for example, would pursue a debt?

John Swinney: The length of time varies in different circumstances. Under the Prescription and Limitation (Scotland) Act 1973, some debts and obligations prescribe after five years. I am afraid I do not have in front of me the information about to whom that applies, but the periods for which obligations last vary.

John Mason: By implication, therefore, some debts are written off much more quickly. Twenty years is not a short period of time; it is quite a long period of time.

John Swinney: It is a long time.

John Mason: My final question is on how the £869,000 is being split up. I presume that you had various options for that, one of which would have been to take that 0.2 per cent of the total debt and give it out in proportion to the debt to councils.

The councils basically told us that the net value of the debt in their accounts is nil because they have fully provided for it, so presumably a second option would have been to argue that the councils did not need any money and that the £869,000 was a bonus. However, you have chosen a third option, which is based on what councils are collecting. Can you explain why you chose that option?

John Swinney: That struck me as the fair option. If local authorities were still endeavouring to collect elements of the poll tax and they had, and were able to provide for us, authority by authority, information about the sums of money that are still in play to be collected—they have provided that information through COSLA—I thought that it was a reasonable point of agreement to accept that the Government should compensate them for those sums of money.

The Convener: I should point out that although Highland Council said in its submission that

“local authorities are required ... to take all legal means at their disposal to collect tax due”

and it is not supportive of the bill, it has in fact ceased collection.

John Swinney: That is absolutely correct.

Mark McDonald: In the earlier evidence from local authorities, Jean Urquhart was told that councils do not hold the debt on their books. The sums that we are speaking about do not show up in the councils' annual accounts returns, for example. Do you think that the £425 million figure that is being bandied around is unhelpful, given that the debts are not currently held against councils' accounts and given your point about the likelihood of recovery of the vast bulk of that debt?

John Swinney: As I said in my opening statement, it is a fact that the amount of poll tax debt that is currently uncollected is £425 million. However, that is a meaningless figure because it is never going to be collected. Ten authorities have decided that their share of that £425 million is just not going to be collected, and some authorities have not been collecting the money for a considerable time. The figure is completely meaningless; it is not a relevant figure.

Mark McDonald: It has been suggested that the legislation could give rise to particular individual behaviours around council tax debt or arrears. Do you agree that, in the case of the 10 authorities that have taken the local decision to cease collection, we should have seen evidence of such

behaviour manifesting itself? Given the collection figures that you pointed out, that does not appear to be the experience. Do you therefore agree that the experience in those local authority areas suggests that that fear may be unfounded?

John Swinney: We are talking about two completely different things here. Local authorities deploy very good practice in relation to council tax collection. The rates of council tax collection have improved significantly over the past 20 years or so. They have become much stronger. I think that authorities pursue council tax collection in an effective way. What we are essentially doing with the bill is tidying up a long-standing and outstanding issue in a way that is fair to local government.

Mark McDonald: In the evidence that we received earlier, Dundee City Council and Glasgow City Council were questioned about the law of prescription—the 20-year limit within which action can be taken. They appeared to indicate that they had essentially got round the 20-year prescription by renewing summary warrants. The debt, as they saw it, remained theoretically recoverable because it was not subject to the 20-year limit. I have two questions on the back of that evidence.

First, should local authorities take that view in relation to the whole debt sum, given what we know about recoverability? Secondly, does the Scottish Government have a view on the 20-year prescription period? I know that that point is separate from the issues in the bill, but a disparity has arisen between the six-year period for which debt is pursuable south of the border and the 20-year period in Scotland. The arrangements have been thrown into contrast as a result of the proposals. Has the Scottish Government taken any view on the prescription period as an issue that it might examine beyond the bill?

John Swinney: As a point of principle, no, we have not. The conclusion that we have come to has been prompted by the set of circumstances that I raised with the convener at the outset. I refer to the suggestion that the upsurge in democratic participation in the referendum and in the electoral process should somehow be used as a route to reactivating the pursuit of historical debt. As Mr McDonald has said, pursuing such debt becomes prescribed if the debt has not been pursued in any way over a 20-year period. That prompted our action in the bill.

As for the general principle and what underpins the terms of the Prescription and Limitation (Scotland) Act 1973, the Government has not given consideration to that point.

Mark McDonald: The Scottish Government has received information about the sums that were

likely to come in from the payment plans and recovery plans that are in place, but some local authorities have spoken about the existence of sporadic and informal payments. I presume that the Scottish Government did not factor those payments into its calculation, because there is no way of arriving at an accurate figure covering potential situations in which somebody turns up on their council's doorstep saying that they wish to make good their debt without a recovery plan already being in place.

John Swinney: There is no reliable means of estimating that, although we can look at the pattern of payment of poll tax arrears, which, as I indicated, shows that payments have been steadily declining year by year. In the last financial year for which data is available, payments totalled £327,000, so they are petering out significantly.

If an individual is particularly troubled by the matter, there is nothing to prevent them from paying off their arrears now, if they really want to, and there will be nothing to prevent them from making a donation to their local authority to assist with its work after the bill has been enacted.

In terms of the orderly disposal of local authority liabilities, this is the right move for the Government to take.

Gavin Brown: You make a big distinction—you have done so on several occasions—between what you describe as a live tax and a dead tax. For how much longer will the council tax be a live tax?

John Swinney: It is a live tax today and it will be a live tax for as long as Parliament wishes it to be.

Gavin Brown: Is it correct to say that the Government is setting up a commission—I think that it will meet tomorrow—with the objective of replacing the council tax?

John Swinney: As we set out in the programme for government, the Government is setting up a commission that will work with other political parties—at least, an invitation to participate has been extended to all political parties. I hope that all political parties will decide to participate, given that the Local Government and Regeneration Committee suggested that the Government should work to create agreement among all political parties on local taxation and that we should work in partnership with our local authority colleagues to arrive at a broadly supported approach to the issue. That is the objective of the commission that the Government is setting up, and I look forward to all political parties participating in the process.

11:15

Gavin Brown: Did the letter that the Government sent to political parties refer to “an approach to local taxation”, or did it refer “replacing the council tax”?

John Swinney: I do not have the letter in front of me, but I am happy to provide it the committee.

Gavin Brown: As far as I understand it, the Government's intention is to replace the council tax and turn it into a dead tax, to use the cabinet secretary's term. That is what my question was trying to establish.

John Swinney: I have not come equipped with the wording from the Government's manifesto, so please do not quote back at me what I am about to say. I think that the Government's manifesto said something about consulting with others to design a system of local taxation that has a better relationship to the ability to pay. I do not think that that was the exact wording, but it was of that character. We are just inviting other political parties to be involved in that conversation.

Gavin Brown: Okay. I will leave that issue.

You used the word “consult” which leads on nicely to my question about consultation. The convener asked you—others have raised this issue, too—how, in the absence of a consultation, the views of the public are being taken into account in the formulation of the bill.

John Swinney: We hear representations from members of the public and from members of Parliament on behalf of their constituents. I have certainly replied to a number of members of Parliament who have raised issues with me about the proposals in the bill.

Gavin Brown: Do you not think that the public should have had a say prior to stage 1 and that there should have been a formal consultation on the issue?

John Swinney: We are where we are. We have sought the agreement of Parliament to undertake an expedited bill process to enable us to make the bill effective from 1 February 2015 and ensure that there is clarity before the start of the next financial year.

Gavin Brown: Okay, but do you not think that there should have been a public consultation—even an expedited one?

John Swinney: I do not feel as if I am being insulated from public opinion on the issue. As the convener said, a number of members of the public have raised the issue. I have already indicated that I have replied to a number of members of Parliament who have raised the very issue that Mr Brown is raising with me. The Government is conscious of that issue. I understand the concerns

expressed by members of the public who have paid their community charge, as I have done—I should probably make that clear, given that I am old enough to have been liable for the community charge.

Gavin Brown: Okay.

Under the heading “Consultation”, paragraph 14 on page 3 of the policy memorandum says:

“officials have consulted COSLA and local authority practitioners on development of the provisions in the Bill which have operational implications for local authorities, in order to ensure these provisions are informed by how community charge debt collection operates in practice.”

You can check this in the *Official Report*, but when I asked COSLA and the only two local authorities that gave evidence earlier about that process of consulting them, the suggestion was made that there was a meeting to discuss quantum that lasted for less time than the committee meeting had taken up to that stage—there were about 40 minutes on the clock. The evidence of the witnesses was that it was their understanding that there had not been any consultation on the terms of the bill, its political objectives or some of the unintended consequences. That is what the witnesses said. Are you telling me that there were other consultations with COSLA that those witnesses were not aware of? If so, what was the nature of those consultations?

John Swinney: I do not know what instances or examples of consultation were mentioned by those local authorities. I am certainly happy to provide the committee with an explanation of the steps to consult local government that were taken by ministers and officials. For the record, I can confirm one bit of it.

Mr Brown asked me about consultation on the policy intent and the principle. There was no consultation with local government on that. I telephoned the president of COSLA about 15 or 20 minutes before I knew that the statement was going to be made in the Parliament, to give him advance warning. That is the consultation that there was. We did not ask COSLA whether it agreed with us. I phoned the president of COSLA to advise him in advance that the announcement was going to be made.

Gavin Brown: Okay. You are going to furnish us with that information. I ask about that only because the policy memorandum says that there was consultation on the

“development of the provisions in the Bill”.

That seems different from what I have heard today, but of course the witnesses may not have had the complete picture.

John Swinney: They may not, but I will furnish the committee with the detail that supports paragraph 14 of the policy memorandum.

Gavin Brown: Okay. I am grateful for that.

The convener raised this point, but what does the Government say to two individuals who both disagreed with the community charge, one of whom ended up paying it, perhaps making sacrifices to do so, and one of whom did not pay it and is now being absolved of it? How does the Government explain to those two individuals in terms of fairness and the way that Government ought to operate?

John Swinney: I start from the principle that people should pay their taxes. That is my basic principle in all of this. I do not support the fact that people do not pay taxes for which they are liable. That is the first thing that I would say.

The second thing is that we are dealing with quite exceptional circumstances here. We are dealing with a tax that lasted for four years and was the subject of massive political controversy and enormous political disruption. There was very significant political disruption for one individual whom I remember, who lost office on the back of the poll tax: the late Prime Minister, Mrs Thatcher. This was an issue of enormous political conflict and dispute, and it was concluded more than 20 years ago.

The best efforts of local government have been deployed over 20 years to try to collect this tax. As we see from the data that we have in front of us, various authorities over the years have worked away at trying to collect the arrears. In certain circumstances, for example in Falkirk, nothing has been collected of the tax for some time—I have the data back to 2003-04 and nothing has been collected in Falkirk since then.

There have been efforts around the country to collect the tax. We have reached a point at which a particular intervention has prompted the Government to say, “Look—let’s just draw a line under this.” Ten local authorities have decided not to collect any of the tax and are not doing so, and we are simply regularising that across the country.

The final thing that I would say to the individuals to whom Mr Brown referred is that I appreciate and value the fact that individuals have fulfilled their obligations to the public purse. I acknowledge that what the Government is proposing is perhaps not something that they would support, but we believe that it is important to bring to a close what is a pretty unsatisfactory and unsavoury part of our political and taxation history.

Gavin Brown: Another issue, which has already been raised briefly this morning, is the concern among the councils that have submitted evidence

to us that the bill could impact on their council tax collection. You mentioned the current collection rates. If their fears turn out to be true, the bill does impact on council tax collection—particularly historical council tax collection—and they can demonstrate that it has hardened attitudes, if you like, or just made it more difficult to collect the money, will the Government be agreeable to underwriting the sums that they feel they have lost out on? You hope that that will not turn out to be the case, but if it does, will the Government back local government and underwrite those sums?

John Swinney: I would make the distinction that I made to the convener, which is the one between a dead tax and a live tax. The council tax is a live tax and I would encourage local authorities to pursue council tax collection as efficiently as they currently do. I see nothing that reads across from the abolition of historical poll tax debt—which is now clearly uncollectable and has been for some considerable time—to the collection of the current council tax.

Gavin Brown: You do not see a connection, but if there is such a connection and the councils' fears, as expressed to us, turn out to be correct, and it can be demonstrated to some degree that that is the case, will the Government, as a matter of principle, put its money where its mouth is and underwrite the debt?

John Swinney: No. The collection of council tax is the responsibility of local government—an ongoing responsibility for local authorities.

Gavin Brown: I do not mean the collection of current council tax. If it turns out that there is a dramatic slowdown in the collection rate of historical council tax debts, from years gone by, which can be attributed to this policy, is the Government willing to act to help councils?

John Swinney: No, because it is the responsibility of local authorities to undertake that collection activity. Mr Brown talked about a scenario in which it can be “demonstrated” that a slowdown is attributable to the passage of the legislation. It would be really interesting to try to prove and demonstrate how that claim had any substance. If someone were to use that argument as an excuse to resist due process in the collection of a council tax liability, there would be no substance or standing to it whatever.

Gavin Brown: Right. You said that local authority leaders were saying publicly—or perhaps privately, I am not sure—that they intended to use the expanded electoral roll to collect backdated community charge debts. They may well use it to collect backdated or historical council tax debts too. Is the Government comfortable with that?

John Swinney: Individuals have liabilities for the council tax, which I think they should fulfil.

Local authorities are entitled to use any publicly available information at their disposal to collect arrears of council tax.

Jean Urquhart: I have a point of clarification. We talk about needing the legislation in order to absolve councils from pursuing tax debts, perhaps from people who have since deceased or emigrated or whatever, and yet there are 10 local authorities who have stopped pursuing such debts without legislation. We seem to be saying that councils are legally obliged to pursue tax debts, but what about the 10 local authorities who appear not to need the legislation to do what you think they should all be doing?

John Swinney: The 10 local authorities that are not collecting any such debts are essentially voluntarily turning a blind eye; or maybe it is impractical for them to collect any more—they may have reached the end of the road. However, they still have legal obligations. The purpose of the legislation is to remove those obligations.

Jean Urquhart: Might there have been a way forward that involved other local authorities doing this on a voluntary basis, rather than legislation being needed?

John Swinney: Removing the particular duty on local authorities clears up the law. Where we have the opportunity to do that, we should take it, to make it crystal clear where the law stands on such matters.

Jean Urquhart: Finally, do we have any idea how many people are affected? I am assuming that, after 20 years, a local authority would not be pursuing someone who was dead or who had emigrated 15 years ago. Do we know for sure that the amount of money that we are talking about includes 20 years' worth of poll tax from someone who is deceased, or has emigrated or moved to another part of the United Kingdom?

11:30

John Swinney: Obviously, we are dealing with a range of individuals here, so I do not have any particular colour on the nature of who is being pursued or who has particular payment ranges in place. I cannot furnish the committee with that. However, there are a variety of levels of collection activity around the country by different authorities.

Having looked at the data, I have concluded that essentially a number of payment arrangements have been in place with a reasonably large number of individuals over a 15 to 20-year period since the abolition of the poll tax and that the arrangements have steadily been petering out. There was no upsurge in arrangements, say, five years ago to get new people to accept their obligations and pay up. The conclusion that I

arrived at from the data is that payment arrangements were put in place each year from 1992 to 1996 but generally have petered out since.

Jean Urquhart: Right. I think that some of that information will be quite important in terms of convincing some of the people who are writing to me, you and all MSPs because they see the bill as unfair. I do not agree with that view, but it is important that the facts are presented to make the issue much more real and to back up the legislation. It will have to be quite easy to deliver such information to people who feel that the proposals are unfair.

Some of the written submissions that we have had from local authorities have referred to something that we have talked about before in relation to tax collection, which is that people must be confident about paying their tax and do not like being in debt in that regard. I think that both those aspects are in many ways key for the bill.

John Swinney: That is the conclusion that I arrived at after looking at the issues around council tax collection. The collection rates are very strong and have got much stronger in recent years, so there is evidence that people are actively paying their obligations towards local authorities to support the public services that are available in our localities. That point is strongly and clearly evidenced by the experience of council tax collection.

Jean Urquhart: Thank you.

Richard Baker: Cabinet secretary, I understand the logic of your argument about why you wanted to move quickly on the policy. However, you have said this morning that there was no consultation at all with local authorities about the intention to introduce the bill. Surely the policy could have been introduced expeditiously but have included time to have a proper dialogue with local authorities about the introduction of the bill. How does the Government's approach sit with its relationship with local authorities and respect for the importance of authorities' duties, responsibilities and views?

John Swinney: As a minister who has been immersed in our dialogue and discussion with local government since 2007, frankly I think that there is a barrowload of evidence of the Government's good practice in having communication and dialogue with local government about shared priorities and the development of the wider policy agenda, which I see as a partnership between the Scottish Government and local government.

Richard Baker: Does your approach to the bill meet the standard of good practice?

John Swinney: I do not think that the approach that we have taken here is typical. The point that I was making is that we have ample evidence of the fact that the Government consults local government properly, fully, openly and exhaustively on many issues. I freely acknowledge that the approach that we have taken with the bill is not the norm. We acted swiftly because we did not like the way in which, following the referendum, certain local authority leaders were suggesting that the upsurge in democratic participation could be used to collect historical poll tax arrears, and we wanted to nip that in the bud. We could have held an extensive consultation, but if we had done so, we would not have nipped the issue in the bud.

Richard Baker: I appreciate your point of view on that, but Jean Urquhart raised the important question of the extent to which legislation was necessary, which COSLA raised. If you had held a consultation, that area of thought could have been explored. To what extent did you consider alternative ways of achieving the policy objective before you introduced the bill?

John Swinney: The president of COSLA raised the issue of whether legislation was required in correspondence with me. The response that I provided to Councillor O'Neill was that we wanted to legislate to remove any possible doubt about the solution to the problem. We wanted to make the position crystal clear in law. Having come to an agreement with local government that the Government would meet the cost of the outstanding collectable poll tax debts that local authorities could identify, we wanted to draw the matter to a conclusion by providing clarity that local authorities would be absolved of any obligation to collect any further arrears. I would have thought that local government would have welcomed that legal clarity.

Richard Baker: In his questions to you, Gavin Brown raised the general issue of the use of the electoral roll to recover debt to councils. You said that you thought that the use of the electoral roll was appropriate in relation to council tax debt. Instead of having a policy of making it clear to local authorities in guidance or by whatever other mechanism might be necessary which debts they can use the electoral roll for, did you explore the possibility that electoral registers should not be used for such purposes and that councils should not use that information to pursue debts that are owed to them? Does the same not apply to council tax debts as applies to poll tax debts? Such debt should not be a factor when it comes to encouraging people to vote and take part in the democratic process.

John Swinney: A number of factors are wrapped up in that question. The simplest way to

address it is to consider the core substance of the issue at stake, which is whether it is desirable for people who became involved in the democratic process in 2014 to find that the first thing that happens to them as a consequence of that is that they are pursued for historical poll tax arrears that have been dead for 20 years. Is that the first connection that should be made? I fundamentally disapprove of that; I think that it is the wrong thing to do, which is why we are legislating in the way that we are.

On the wider question of utilisation of the electoral roll, I have concerns about the fact that the electoral roll can be available to a variety of organisations to pursue individuals—not necessarily for debt, but for other purposes. I frequently get representations from constituents who feel that they are being actively pursued by external organisations that have clearly used the electoral roll. We must look at that. The Government has raised such issues with the UK Government.

Fundamentally, the way to address the issue is to provide local authorities with absolute legal clarity that the debts that arose from the poll tax have been extinguished, which is the issue that we address in the bill.

Richard Baker: Are you comfortable with councils using information to chase up council tax debt?

John Swinney: They are entitled to do so, yes.

Richard Baker: Finally, will debt recovery be part of the discussions with the commission that you are establishing to discuss the future of local taxation?

John Swinney: In respect of what?

Richard Baker: In respect of the general issue. Some authorities, including Highland Council, are concerned that the bill sets a precedent. Will the general approach to maximising councils' income and the appropriate way to chase debts be part of the discussions, or should debt recovery be a separate issue?

John Swinney: I think that it should be a separate issue.

The Convener: I thank the cabinet secretary for his evidence. Do you want to say anything else, cabinet secretary?

John Swinney: I have nothing to add.

The Convener: I suspend the meeting to allow for a changeover of officials.

11:40

Meeting suspended.

11:43

On resuming—

Subordinate Legislation

Scottish Landfill Tax (Prescribed Landfill Site Activities) Order 2014 (SSI 2014/367)

The Convener: The next item is evidence from the cabinet secretary on the Scottish Landfill Tax (Prescribed Landfill Site Activities) Order 2014. The cabinet secretary is joined by David Kerrouchi, Neil Ferguson and John St Clair, from the Scottish Government—[*Interruption.*] Sorry, I am as blind as a bat. Greig Walker has replaced John St Clair. I do apologise.

I invite the cabinet secretary to make an opening statement about the order. I remind him not to move the motion on the order at this point.

John Swinney: Thank you. Section 6 of the Landfill Tax (Scotland) Act 2014 provides a power to prescribe certain landfill site activities. If a prescribed landfill site activity is carried out at a landfill site, the activity is treated as a disposal of waste to landfill at that site. The list of prescribed activities in article 3 of the order relates to temporary engineering activity on a landfill site.

The order has its origin in case law concerning the United Kingdom landfill tax. In a case that Waste Recycling Group brought against Her Majesty's Revenue and Customs in 2008, the English Court of Appeal ruled in favour of Waste Recycling Group and concluded that engineering activities on a landfill site were classed as non-waste disposals to land and, as such, fell outside the UK tax. In response to the ruling, the following year the UK Government introduced the Landfill Tax (Prescribed Landfill Site Activities) Order 2009, to bring temporary engineering works into the scope of the tax.

It is the Scottish Government's view that all waste material that is deposited at a landfill site should be subject to Scottish landfill tax, unless there is a specific exemption, it is deposited in a non-disposal area, or it is used in the final restoration of the site. Building on the experience of HMRC in that case, the order brings material from temporary engineering works on a landfill site into the scope of the tax. Activities relating to the permanent restoration of a landfill site are not, however, within the scope of the Scottish landfill tax, as we would not want to create any barriers to the full and final remediation of a landfill site.

11:45

A draft order was included in the public consultation paper "Scottish Landfill Tax—A Consultation on Subordinate Legislation", which

was published last June, and 85 per cent of respondents agreed with the proposed order. Ernst and Young LLP and SITA UK Ltd, for example, suggested that mirroring the UK list of prescribed activities would alleviate concerns about the possibility of waste tourism.

The Convener: Thank you, cabinet secretary. I have no questions myself, so I invite questions from other committee members.

John Mason: The argument has been put that, if somebody builds a road somewhere else, especially if they are using recycled material, there would not be any tax on that, so it is illogical that there should be a tax on a road built within a landfill site. Can you explain why you think that that is not the case?

John Swinney: The rationale is to ensure that activity that gives rise to waste that has to reach a landfill destination is properly taxed in that process and in all circumstances. The fact that it is activity that is happening within a landfill site does not absolve it of that necessity to be captured by the consistency of the tax.

Malcolm Chisholm: Is it not the case that the same material used outside the site to improve access and transportation would not attract the tax? Is that not the point that is being made by the people who are concerned about that? The Chartered Institute of Taxation has said:

“it is difficult to see why building a road inside a landfill site should be considered as a disposal of waste when the same activity done outside a site would not be.”

That is the source of concern.

John Swinney: The waste is clearly being generated within that site and it has to be disposed of. That is the point that we have to focus on. The point that Mr Chisholm makes about a development outside a landfill site is that it would involve the use of materials from a variety of different sources, on which whatever tax has to be charged would have been charged. The distinction that we are making is that, where a road construction is undertaken within a landfill site, the purpose of doing that should have given rise to landfill tax if the material had been removed from that site and had gone to a landfill site. We are establishing the point that, if there is waste, there has to be a charge on that waste even though it may be used within a landfill site. That is the simplest way in which I can try to express it.

Malcolm Chisholm: I will reflect on your response.

John Swinney: That is most generous.

The Convener: If there are no further questions, we will move to the debate on the

motion. I invite the cabinet secretary formally to move motion S4M-12007.

Motion moved,

That the Finance Committee recommends that the Scottish Landfill Tax (Prescribed Landfill Site Activities) Order 2014 be approved.—[*John Swinney.*]

Motion agreed to.

The Convener: The committee will now publish a short report to Parliament setting out our decision on the order.

Land and Buildings Transaction Tax (Prescribed Proportions) (Scotland) Order 2014 (SSI 2014/350)

Land and Buildings Transaction Tax (Qualifying Public or Educational Bodies) (Scotland) Regulations 2014 (SSI 2014/351)

Land and Buildings Transaction Tax (Definition of Charity) (Relevant Territories) (Scotland) Regulations 2014 (SSI 2014/352)

The Convener: Our next item of business is to take evidence from the cabinet secretary on three items of subordinate legislation relating to land and buildings transaction tax. I invite the cabinet secretary to make an opening statement.

John Swinney: I will take in turn each of the three land and buildings transaction tax instruments, which are all subject to the negative procedure.

The Land and Buildings Transaction Tax (Prescribed Proportions) (Scotland) Order 2014 sets out prescribed proportions for two reliefs from LBTT, multiple dwellings relief and acquisition relief. To encourage investment in the private rented sector, schedule 5 to the Land and Buildings Transaction Tax (Scotland) Act 2013 provides tax relief for land transactions involving a purchase of multiple dwellings. Relief is provided based on the calculation of the average price of each dwelling being acquired—applying residential rates of tax to each dwelling, rather than charging the higher rates of tax on the full purchase price of the multiple dwellings. Paragraph 12 of schedule 5 allows Scottish ministers to prescribe a minimum proportion of LBTT that must be paid so that the amount of relief is in effect capped. The instrument sets the minimum proportion of LBTT that must be paid where the relief applies.

The consultation paper, “Moving Forward with Land and Buildings Transaction Tax: A Consultation on Proposed Subordinate Legislation”, which was published in May 2014, proposed setting a minimum prescribed proportion

of 40 per cent of LBTT that would be payable in the absence of multiple dwellings relief. Eleven respondents opposed the proposal on the basis that it would result in a higher tax liability than under stamp duty land tax. Taking into account the views of those who responded to the consultation, I have concluded that an appropriate prescribed proportion for multiple dwellings relief should be 25 per cent. The logic behind that is that, under the slab tax structure for SDLT that applied at the time, where the average price per dwelling being acquired fell in the nil-rate band, a tax floor was charged at 1 per cent of the whole average purchase price of the dwelling. If the chargeable consideration for the whole transaction exceeded £1 million, as it often did, although not in all cases, in the absence of a relief tax would have been charged at a rate of 4 per cent. As 1 per cent is 25 per cent of 4 per cent, in my view 25 per cent is a comparable prescribed proportion for relief under LBTT.

Part 3 of schedule 11 to the 2013 act provides for acquisition relief where

“a land transaction is entered into”

by a company

“for the purposes of or in connection with the transfer of an undertaking or part of an undertaking”

of another company. The instrument prescribes the proportion of LBTT that must be paid where the transaction qualifies for acquisition relief. Eleven respondents to the consultation paper addressed this question, with views divided on the proposed rate of 15 per cent for the prescribed proportion of acquisition relief from LBTT. Under the SDLT slab tax structure, tax was charged using this relief at 0.5 per cent on the chargeable consideration; if the chargeable consideration exceeded £1 million, tax would otherwise have been charged at 4 per cent. As 0.5 per cent is 12.5 per cent of 4 per cent, 12.5 per cent is a comparable prescribed proportion for the relief under LBTT. The instrument therefore provides for a prescribed proportion for acquisition relief of 12.5 per cent.

I turn to the Land and Buildings Transaction Tax (Qualifying Public or Educational Bodies) (Scotland) Amendment Order. Paragraph 17 of schedule 2 to the 2013 act sets out what counts as chargeable consideration where a public or educational body enters into a sale and leaseback arrangement with another party—a non-qualifying body. Paragraph 17(2) sets out which public or educational bodies are qualifying bodies for the purposes of paragraph 17.

Paragraph 2(c) refers to any body listed in schedule 2 to the Further and Higher Education (Scotland) Act 2005. Subparagraph 3(c) provides a power to vary the list of qualifying bodies

mentioned in paragraph 2. The Post-16 Education (Scotland) Act 2013 removed institutions from the 2005 act that should still have the exemption at paragraph 17(2)(c) of schedule 2 applied to them.

It is my intention that publicly funded colleges and universities should continue to be in the scope of paragraph 17(2) of schedule 2 to the LBTT act. The Land and Buildings Transaction Tax (Qualifying Public or Educational Bodies) (Scotland) Amendment Order therefore amends the list of qualifying bodies in paragraph 17(2) accordingly. It is a purely technical change to reflect the changes to the higher education landscape following the Post-16 Education (Scotland) Act 2013.

The Land and Buildings Transaction Tax (Definition of Charity) (Relevant Territories) (Scotland) Regulations 2014 make use of the power in paragraph 15(3)(d) of schedule 13 to the LBTT act to add to the list of qualifying territories from which a body that is registered as a charity may originate and be eligible to claim charities relief, which reflects tax treaties that the United Kingdom has with other territories.

The LBTT consultation paper, which was published on 1 May 2014, invited views on a draft of those regulations. There was agreement from the 10 respondents to the Scottish Government's proposal that the Republic of Ireland and the Kingdom of Norway should be added to the list of relevant territories for the purposes of charities relief. One respondent suggested that the Principality of Liechtenstein should be added to the list of relevant territories in order to ensure consistency with changes that will come into effect for SDLT under the Taxes (Definition of Charity) (Relevant Territories) (Amendment) Regulations 2014. To keep Scotland's LBTT legislation in line with UK tax treaties, the Land and Buildings Transaction Tax (Definition of Charity) (Relevant Territories) (Scotland) Regulations 2014 add the Republic of Iceland, the Kingdom of Norway and the Principality of Liechtenstein to the list of relevant territories for the purposes of charities relief.

Just for the avoidance of doubt, I may earlier have inadvertently referred to the Republic of Ireland, but I meant the Republic of Iceland.

The Convener: We were about to swoop on that very point.

John Swinney: I thought that I would get in there before you, convener.

The Convener: Wise.

I have no questions, but do members have any?

Gavin Brown: I have one question that relates to the first instrument, which is SSI 2014/350. The policy note says, right at the end, under the

heading “Impact Assessments”, that the Government’s

“approach to the prescribed proportions for multiple dwellings relief and acquisition relief broadly mirrors the current approach for SDLT”.

I wonder about the timing of that. Does it refer to the previous approach to SDLT or does it take into account the autumn statement? If it is the latter, that is fine; if it is the former, is any reworking needed?

John Swinney: It applies to both, because we are applying a mechanism rather than an absolute number. It is a mechanism, so it will deal with all circumstances.

Gavin Brown: Therefore, your statement that the approach

“broadly mirrors the current approach for SDLT”

would stand.

John Swinney: Essentially, that is because we are introducing a mechanism.

Jean Urquhart: On the same instrument, I may be wrong, but I remember that, when we discussed the changes that we would make in legislation, multiple dwellings were one area in which there was a vulnerability to tax loopholes in the existing legislation, and we were determined to make our legislation as tight as possible. Are you content that we are not making our legislation more vulnerable in relation to multiple dwellings?

John Swinney: The sentiment to which Jean Urquhart refers is very much my sentiment and approach. That is evidenced by two things in the way in which we pursued the legislation. One was the minimisation of reliefs. There will be fewer reliefs in our legislation than there are in the current arrangements. The second was the work that we undertook in the Revenue Scotland and Tax Powers Bill, which Parliament supported, on the establishment of a very high level of intolerance of tax avoidance through the general anti-avoidance rule. I see that the general anti-avoidance rule is now attracting the commentary that I hoped it would, which is basically that it is a pretty high bar and that a very intolerant approach is being taken in Scotland. I am pleased that the tax commentary is now reflecting that intent in our legislation.

Although we have reduced the number of reliefs, we have not eliminated them altogether, because reliefs have a legitimate part in the tax system. I am confident that the arrangements that I put in place here are consistent with that approach.

Malcolm Chisholm: You gave a logical mathematical explanation for the change from 40 to 25 per cent, but I wonder whether it will have

any impact on future private housing investment. Was that a relevant factor and is the change from 40 to 25 per cent significant in that regard?

12:00

John Swinney: It is interesting that Mr Chisholm highlights my mathematical logicity on 25 per cent. I do not suppose that I could say that 40 per cent was graced by mathematical logic. At least we got there in the end.

The point was well made by the respondents, which I think is the point that Mr Chisholm makes, that at 40 per cent the relief might well have had an impact on multiple dwellings. I hope that by the actions that I have taken I have addressed the issue.

Malcolm Chisholm: The instrument says that multiple dwellings relief will not be available to private landlords

“who acquire properties in a piecemeal fashion”.

What does that mean in practice?

John Swinney: It essentially means that this is an approach that we are taking to a cumulative project development on a particular site, where there is an opportunity to create a range of properties that would then be available for onward transaction, as opposed to a private landlord who might like to apply for this type of relief here, there and everywhere—if that makes the distinction.

Neil Ferguson (Scottish Government): What Mr Swinney said is absolutely correct. The relief is for where the landlord is acquiring multiple dwellings in one transaction—in one go—whereas the piecemeal approach would be to buy them one at a time. It would not apply to a landlord buying properties one at a time with a view to building up a portfolio, but it would apply to a landlord buying eight or 10 or 50 properties in one go. It is to encourage investment in the private rented sector, as the cabinet secretary said at the outset.

The Convener: That has exhausted the questions from members. I thank the witnesses from today. We will have a 30-second break to allow the cabinet secretary and his colleagues to leave.

Our next item of business is to consider the negative instruments on which we have just heard evidence. I invite comments from members. Members have no comments.

At the start of the meeting, the committee agreed to take item 7 in private, so I close the public part of the meeting.

12:03

Meeting continued in private until 12:04.

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