



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### FINANCE COMMITTEE

Wednesday 4 March 2015



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**Wednesday 4 March 2015**

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**FINANCE COMMITTEE**

**8<sup>th</sup> 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:**

Eleanor Emberson (Scottish Government)

Caroline Gardner (Audit Scotland)

Professor Kenneth Gibb (What Works Scotland)

John Kenny (Scottish Environment Protection Agency)

David Kerrouchi (Scottish Government)

John King (Registers of Scotland)

Professor James Mitchell (What Works Scotland)

Douglas Sinclair (Accounts Commission)

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

**CLERK TO THE COMMITTEE**

James Johnston

**LOCATION**

The Adam Smith Room (CR5)



# Scottish Parliament

## Finance Committee

Wednesday 4 March 2015

*[The Convener opened the meeting at 09:30]*

### Preventative Spending

**The Convener (Kenneth Gibson):** Good morning and welcome to the eighth meeting in 2015 of the Scottish Parliament's Finance Committee. I remind everybody to turn off mobile phones and other electronic devices.

Agenda item 1 is two evidence-taking sessions as part of our continuing focus on preventative spending. In the first, we will hear from Caroline Gardner, the Auditor General for Scotland, and Douglas Sinclair, chair of the Accounts Commission. Members will have copies of the Audit Scotland report "Community planning: Turning ambition into action".

I welcome both witnesses to the meeting. I understand that there will be no opening statement, so we will go straight to questions. I know that you have given evidence to the committee before, Caroline, but for some reason you seem further away than normal. That is just a feature of committee room 5.

In your report, you say:

"The current pace and scale of activity is contributing to an improved focus on prevention but is unlikely to deliver the radical change in the design and delivery of public services called for by the Christie Commission."

You go into that in greater detail in the report. Is that still your view? What specific measures would you like the Scottish Government to implement in order to change that situation and "deliver the radical change" that is required?

**Caroline Gardner (Audit Scotland):** I will kick off, convener. Douglas Sinclair might want to add to what I say.

The view that you have highlighted came not only from the work that we have done on community planning—between us, we have now audited eight partnerships throughout Scotland and in the past couple of years, we have produced two national reports on the matter—but from the range of work that we have done in other areas of public policy. In this particular report, we refer to the progress on reshaping care for older people. For a while now, there has been a clear policy commitment to radically reshaping healthcare in order to meet the needs of Scotland's growing elderly population, to help us all live at home independently for longer and to recognise the fact

that resources are constrained for the foreseeable future.

Our work shows that, despite the focus on this issue and the effort that has been put into it, with policy shifts and the introduction of the change funds, the amount of money that we are shifting is very small and at the margins. The change that is happening tends to take the form of small-scale pilots, and we are not getting the shift to the radical reshaping that we require in that area of policy for older people and in the other priorities that the Government has set on early years, reducing reoffending and tackling inequality more generally. Much of the building work is in place, but the change that we are seeing is at the margins instead of people asking how we better use the £4.5 billion that is spent every year on older people to get the outcomes that we are looking for.

**The Convener:** How can the Scottish Government ensure that we take this forward more expeditiously?

**Caroline Gardner:** We have made a number of recommendations, which I will summarise in two groupings. First, we need to ensure that the planning for outcomes is done more effectively. There is a huge amount of support for and consensus on the outcomes approach, and outcomes are now well embedded in public policy making at Government level and for each of the 32 community planning partnerships throughout Scotland. However, we are not always seeing the planning that asks what the Government and each of the partners at a local level will do to change things to achieve the outcome that we want to improve. There are a number of reasons for that, and I am sure that we will explore them more with the committee, but planning is issue number 1.

Issue number 2 is the need to get much better at shifting resources and doing something that the committee has focused on in the past: disinvesting. By that, I mean stopping spending money on areas that are less effective and releasing it for areas that will make more of a difference. That is not easy. Demand is outstripping growth in the available resources, and it is much harder to disinvest in that context. However, disinvestment is all the more critical if we are to get the proposed benefits from prevention such as quality of outcomes for people and ensuring that the money that we have can stretch to cover what is needed.

**The Convener:** Indeed. When the committee considered the matter during its budget scrutiny, it found that there was real concern about disinvestment and that it was difficult for organisations to go down that road. We will explore that in further detail, but I invite Douglas Sinclair to add some comments.

**Douglas Sinclair (Accounts Commission):** I will make just one additional point. In our report, we recommend that the Scottish Government and Convention of Scottish Local Authorities jointly develop a framework to assess how well community planning partnerships are improving and that they report on that improvement. At present, we lack an accountability framework to assess how well CPPs are doing and how they can learn from each other better. In fact, the development of that framework is one of the report's more important recommendations.

**The Convener:** A case study in the Audit Scotland report looks at North Ayrshire, which is the area that I represent. On Thursday, there will be a meeting in Largs to look specifically at the report; however, on Monday night, I was at a community council meeting where councillors were asked about it, and I have to say that there still seems to be a lack of understanding about how the change will work on the ground, the timescale in which it will be delivered and how community organisations are going to interact with it. Do you have such concerns?

**Douglas Sinclair:** Yes. In our report, we identify that the national community planning group has refocused its position so that community planning focuses on reducing inequalities. One thing that got in the way of that is the statement of ambition that emerged from the community planning review, which says that community planning partnerships should behave like proper boards. However, they are not proper boards; if they were, you would be able to get rid of someone. These partnerships are voluntary.

There has been confusion in community planning partnerships about their role. After all, they bring together a range of organisations, each of which has its own accountability; there is the councils' accountability to the community, the health boards' accountability to the Parliament, the police's accountability to the chief constable and so on. There has also been confusion about whether they are there to deal with place or with national priorities and about where they can add most value. Our view is that they add most value where budgets overlap—for example, with drug and alcohol services—and they can make the money go further.

We have found in our audits that the community planning partnerships that invested time and effort in building a relationship of trust and confidence in one another have succeeded the most. Some CPPs have not done that and relationships are poor, particularly where the council and the health board have not made the progress that they should have made. There is an important lesson in there for health and social care partnerships, and they must make the same investment in building

trust and respect and in understanding each other's roles.

We might draw a comparison between a councillor, whose role you will understand, and a non-executive member of a health board. Even though they are not one and the same thing, they are put around a table and given the same responsibility. That has not been unpacked, discussed and addressed sufficiently, and it is an issue. As a result, we have said that the national community planning group needs to look again at the statement of ambition in order to take away any excuse for community planning partnerships not making the progress that we want.

**Caroline Gardner:** To build on Douglas Sinclair's points, I think that it is worth saying that North Ayrshire is doing pretty well. It is one of the community planning partnerships that we have looked at that is better at using data. For example, it has drilled down into the data for six neighbourhood areas to understand the challenges in each of them; in some instances, it has drilled down into small groupings of 20 households to understand where the need is and what it can do to meet it. It is starting to do good things about involving local people in discussions about what matters and what changes can be made.

What we are not seeing more widely in many places is clear prioritisation of what people are going to do. The one place we saw that in our last round of audits was Glasgow. Given the wide range of problems that the city faces, the partnership has used data to identify and focus on three specific priorities: alcohol misuse, vulnerable people and youth employment. It has recognised that those issues are interlinked and often affect one another—for example, alcohol abuse can make employment much more difficult—and it is focusing on what people can do to shift those indicators with the planned expectation that that will improve outcomes for the most vulnerable people. Such prioritisation and the planning that goes with it are part of the trick to unlocking prevention.

**The Convener:** Indeed. In your report, you say:

"discussions about targeting these resources at their priorities and shifting them towards preventative activity are still in the early stages."

The fact is that we have been talking about preventative spend for five years now—indeed, since the previous parliamentary session—but during our budget scrutiny, one CPP told us that it was

"now on the precipice of the next step."—[*Official Report, Finance Committee*, 8 October 2014; c 44.]

We all understand the challenges. We have discussed them umpteen times, and your report

goes into them in great detail. We have lots of information about the difficulties, but how are we going to break this logjam or remove the bottleneck and get things moving forward so that in another five years we are not still talking about preventative activity being in its early or medium stages? We really need to pick this up if we are going to see the long-term changes that we all want.

**Caroline Gardner:** I will kick off on that with two points. First, we are seeing a real shift from people talking about their budgets as abstract things—as lists of numbers under budget headings that are analysed in different ways—to people starting to talk about what the money is spent on, such as the number of teachers, youth workers or buildings, or people and assets of other sorts, and starting to think about how they can be used better to achieve the outcomes that people are working towards. That approach is much more productive, because the money is not seen as an end in itself—it buys people, assets and all the other things that we know are vital for outcomes—and because people tend to get a bit less defensive about it. They are not talking about giving up £1 million in a year when their budget settlement is very tight; they talk about pooling the things that people already do and maybe shifting what people do, how they spend their time and the way that they are organised. That has much more potential to move things forward.

The other point that is increasingly clear from the work of Audit Scotland and the Accounts Commission is that the pressures locally are getting tighter and tighter. That means that, in a sense, there will increasingly be no alternative. That will not make this easier or more pleasant to do, and there are risks associated with it. However, in health and social care and care for older people, it is increasingly clear that the pressure from growing numbers of older people with lots of long-term conditions who need to be treated and cared for and the very tight budgets in health and social care mean that carrying on doing what we are doing is just not sustainable. The trick is to manage that in a way that gets the most change and limits the risk. I hope that the integration of health and social care will lead to change in that particular example, but the approach needs to join up to the wider reform agenda to provide opportunities for getting the most from what we spend collectively.

**Douglas Sinclair:** I agree with that. Another point is the need to focus on the areas where it is easier to make progress collectively. That is about recognising that councils will still run schools and health boards will still run the health service; however, our experience is that the community planning partnerships that are focused on the areas where budgets overlap—for example, in

health improvement, economic development or inequality—have considered how they can make their collective spend on them go further. That focus on the areas of overlap helps to build the trust and confidence that I mentioned earlier and brings about results.

One chief executive has described community planning as “the art of the deliverable”, and there is a lot of truth in that. It is a concept that everyone would agree with, because, like preventative spend, it is common sense. However, both are difficult to do in practice. As Caroline Gardner has said, given the budget pressures, savings that are identified are being used to balance budgets instead of creating a pool of money for preventative spend. That has even been true of the change funds, where money is being diverted to prop up budgets.

One thing that would help would be to improve the scrutiny skills of councillors and health board members, for example, so that they are more challenging of the reports that they get on performance. If something is not making a difference, they should ask, “Why are we doing that, and why are we not pooling our budget with our partners?” In this era of coalitions and with the demise of service committees, scrutiny is even more important. We need scrutiny of value for money to ensure that the pounds that we spend are achieving the targets that the councils or community planning partnerships have set out. Scrutiny and challenge are not desperately well developed in community planning partnerships, so there is real scope for that to happen. Indeed, that is one of our findings.

There is also a need for good practice on the ground to be encouraged more. We talk about community planning partnerships, but we need to remember that there are lots of examples of very good partnership working between officials and officers of different organisations that often has nothing to do with a community planning partnership. That approach should be encouraged by the leaders of councils and the chief executives of health boards. It is important that they state that one of their commitments is the better sharing of resources and that community planning is about the fact that no single organisation can solve the problems of an individual or community.

09:45

**The Convener:** What works Scotland, which is giving evidence after you, has said:

“Everyone is in favour of the idea of prevention ... but few want to stake a career on such an uncertain business or invest public funds in preventative measures.”

That is one of the issues that we have to face.

**Douglas Sinclair:** Indeed. One of the things that can get in the way is targets. The real issue with accident and emergency targets, for example, is how to stop people ending up in accident and emergency in the first place. That is the preventative work. There is a debate to be had about the balance between targets and outcomes but if we want long-term change, the focus needs to be primarily on outcomes.

**Gavin Brown (Lothian) (Con):** Mr Sinclair, the idea of improving councillors' scrutiny skills is sound but the way that you have set it up suggests that reports are going to councillors saying that something is not working and that they ought to be scrutinising that. However, councillors tell me that a lot of the reports they get from officials say not that something is not working but that it is working pretty well. It strikes me that very few departments are prepared to say that what they have spent money on has not worked and is not working.

**Douglas Sinclair:** I agree with you—I did not actually say what you have suggested. A lot of officers still have to come to terms with the fact that a key part of the councillor's job is to scrutinise their performance and that one of the duties of officers is to ensure that elected members have the necessary information in a comprehensive enough form to enable them to ask legitimate questions. It is not a one-way ticket; officers have as much responsibility as councillors. It is true that many officers do not like being challenged, but they need to be and it is important that councillors have the skills, confidence and information to discharge their role properly.

**The Convener:** I want to touch on one more area before I open up the discussion to questions from the committee. Audit Scotland has said that CPPs need to

"understand what a successful shift to prevention would look like".

How should that look?

**Caroline Gardner:** This picks up on your quotation from the what works Scotland submission. The challenge is that, for many of those outcomes, we do not know what works. The evidence is not always there. By their nature, the outcomes might take a generation to achieve. Even if there is good practice, it is not at all clear that it will work somewhere else with a different geography, demography and all the other things that can affect it. It is not as simple as saying, "Here's what works—we just need to spread it externally."

We need to get better at understanding what we are trying to achieve in the local part of Scotland that the CPP is responsible for—or perhaps a smaller area, such as a neighbourhood—and we need to look at the range of things that might tell

us what might make a difference such as the evidence where it exists, good practice from elsewhere and the understanding and insights of local staff, local people, voluntary sector organisations and everybody else. Then we must be much more systematic about planning what we expect will prove the outcome that we want to shift and how we know whether what we are doing is working. We can then carry on doing it or disinvest and try something else.

We have some really good examples of initiatives such as the Government-led patient safety programme that show that such an approach works. In that instance, the evidence is probably a bit better than it is for some of the outcomes that we are focusing on. The same approach of being really targeted in identifying what action we think will make a difference, monitoring it and either investing more or pulling back is key.

**Douglas Sinclair:** There might be a precedent in the benchmarking of families of councils or councils of a similar nature, which, for example, allows a rural council to compare its performance with another rural council. If we had families of similar CPPs, a CPP could ask why, if a similar CPP was able to do something, it was not able to do it as well. There is still a huge resistance in Scotland in that respect; if something has not been invented here, we are just not going to do it. I often quote the comment in the recent report on Welsh public services that good practice is a bad traveller. Sometimes there is an unwillingness in Scotland to learn from each other and say, "If someone else has done this, why do we have to reinvent the wheel? Why do we not just pick up that good practice and run with it?"

**The Convener:** I am now going to open up the session to questions from other members. The first colleague to ask questions will be Malcolm Chisholm, to be followed by John Mason.

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** The convener referred to the statement in the report about CPPs needing support to help them

"understand what a successful shift to prevention would look like".

I want to pick up on that point.

I read through the whole report, which I found useful, and I tried to analyse the nature of the problem by dividing it into positive statements about progress on the prevention agenda and the more negative statements. The only positive statements that I could find were that

"all SOAs demonstrated a strategic commitment to the preventative agenda"

and that



"CPPs are starting to focus more on preventative activity", which indicated that there are signs of hope.

On the other hand, we had the statement that

"discussions about targeting these resources at their priorities and shifting them towards preventative activity are still in the early stages."

We even had a statement that

"There are also differences of opinion about the extent to which community planning should focus on prevention and inequalities".

The Scottish Government did not come out totally unscathed, because the report said:

"The Scottish Government ... needs to demonstrate a more systematic approach to implementing its outcomes approach. At present, many performance management frameworks are still heavily focused on inputs and processes and lack a clear prevention focus."

I am trying to analyse exactly what the problem is. Going back to the point that the convener has already introduced, clearly there needs to be more national support. However, should that be at the heart of what we focus on, or are there still problems to deal with prior to that as regards the attitude of CPPs towards the preventative spend agenda? Does everybody accept that agenda as a concept? Should we really be focusing on the evidence and the support, or are there still some other problems?

**Caroline Gardner:** There is very strong consensus that prevention has to be the way to go, not only as a way of making the resources fit the needs but because it is better for the people we are all here to serve if we solve problems before they happen rather than spend a generation dealing with their consequences.

As we say in the report, there is space to make better use of the available support for improvement of preventative strategies. At the moment, there tend to be lots of small-scale interventions that are not joined up particularly well. There is a lot of resource, but it is not all aligned and driving in the same direction.

To pick up on Douglas Sinclair's earlier point, I think that the Government needs to step back and ensure that the outcomes that it wants to achieve in the longer term are consistent with the short-term performance management arrangements that are in place, as we say in the report.

For example, from my report on the NHS, which was published before Christmas, there is increasing evidence that although the reshaping care for older people strategy is absolutely the right one for 2020—with much more care being provided at home, allowing people to live independently in good health—the combination in the short term of very tight financial targets and the health improvement, efficiency and

governance, access and treatment targets mean that there is not very much room to step back and think about how we can take resources out of some services and reinvest in the ones that would either avoid admissions in the first place or help people to be discharged more quickly. That is not an easy thing to do, either politically—because there is a lot of focus on the HEAT targets at the moment—or professionally, clinically and in terms of social care.

I do not think that we know how much we would need to invest in an area such as Lothian—for example, in home care, in geriatricians working in different settings and in rapid response for older people living at home to avoid admissions in the first place—in order to reduce the huge amount that we spend on people who are in hospital for more than 28 days unnecessarily—people who have very bad outcomes because they are admitted when a problem could have been prevented.

There is a need to pull back and understand better what the problem is and what the possible solutions might be in preventative terms. That is true not just for older people's services but much more widely.

**Malcolm Chisholm:** So presumably it is a combination of understanding the evidence better and understanding the very difficult financial constraints that you referred to.

**Caroline Gardner:** Absolutely—you need to do both. However, my sense is that the improvement support needs to be operating at a more strategic level so that we can really understand the scale of the problem Scotland-wide and locally and therefore start to make plans for the reinvestment that this committee is talking about and understand what the consequences would be for the short term.

**Malcolm Chisholm:** So why does the report state that

"There are also differences of opinion about the extent to which community planning should focus on prevention"?

What was the evidence for that statement?

**Caroline Gardner:** It comes from the eight community planning partnerships that we have jointly audited over the last three years or so, and it also goes back to the point that each of the partners has different accountability arrangements.

As Douglas Sinclair says, partnerships have no formal status and are not accountable to anybody. The council is responsible and accountable to its electorate, the health board is responsible to the cabinet secretary, and the divisional police officers are accountable to the chief constable and then to the Scottish Police Authority. Those people are

driven by their own performance management frameworks as well as by whatever the community planning partnership has set as its own priorities; sometimes those pull in different directions and do not always focus on prevention.

**Malcolm Chisholm:** So there is a multiplicity of objectives.

**Caroline Gardner:** Absolutely.

**Douglas Sinclair:** One of the key messages in our report is that all the bodies involved in community planning need to play their part in full. By that I mean, first, that the national community planning group needs to be clear about what its revised approach to community planning, with the focus on prevention and equalities, means for the statement of ambition, as I mentioned earlier. Secondly, the Scottish Government and COSLA need to develop a framework to assist the performance and pace of improvement of community planning partnerships—we are not measuring that at all just now. Thirdly, community planning partnerships need to invest more in building mutual trust and capacity, but also to start making the difficult choices about moving resources into prevention. There must be movement on all three fronts at the same time.

**John Mason (Glasgow Shettleston) (SNP):** The written submission from what works Scotland talks about the question of prevention. It says:

“In practice prevention explicitly or implicitly has been around a long time and most public policy has a preventative dimension, including much policy that may not be labelled ‘preventative’.”

That makes me think that we might not be that clear about what is preventative and what is not preventative.

**Caroline Gardner:** You are right that there is room for more clarity, and that links back to the point that we make in our report about the need for more planning for outcomes under the framework of Scotland performs. Everything in that is an outcome: it is all about making life better for the people of Scotland, in their different groups and in different ways. In our audit experience, the extent to which that is underpinned by the detailed planning—which says that in order to do X everyone who can influence it has agreed what they will do and how it hangs together—varies.

In our two recent reports on renewable energy, for example, we found that the Government had a great record of being very clear on what it wanted to achieve, what the levers were and how it would be measured over a long period of time. That is not to say that it all happens, because such processes are complex, but the clarity was there.

In relation to housing policy, we found that there was less clarity and less alignment of all the

people with an interest in the area. That may be because housing is a more complex problem. However, we think that the underpinning of the outcomes varies and that there is scope to increase the clarity about what the best guess is about how to improve a given outcome, based on the evidence, past experience and the insights of the people doing it. There is also scope to increase clarity in how that will be measured and monitored to ensure that it is moving in the right direction.

That is what we are looking for in relation to being clear about what the preventative activity is in shifting each of the outcomes and understanding better the choices and trade-offs involved.

**John Mason:** Many of us would agree that housing is a good area for preventative spending, because that is likely to help education, health and family budgets. Whatever studies there might be, the gut feeling is that preventative spending would be useful.

In contrast, I would have more questions about such spending in a hospital. We are spending something like £700 million on the new hospital in Glasgow—

**The Convener:** It is £842 million.

**John Mason:** I stand corrected. We are spending a large amount of money on a new hospital in the south side of Glasgow, but can we call any of that spend preventative? Can we call all of it, or none of it, preventative? Can you comment on that?

**Caroline Gardner:** That is exactly the right question to ask. If you were to ask a group of health and social care professionals, none of them would say that we do not need hospitals now and we will not need them in the future. The point that I am interested in is this: if we have a vision for 20 years from now—or for 2020, under the current policy—in which lots of the older people who are currently admitted to hospital will not need to be, and we consider what we have now, do we know how many of those older people are in hospital because there is currently no alternative and how many are there because they need exactly what a state-of-the-art hospital such as the new Southern general can offer?

For the people who could be somewhere else, what do we need in terms of geriatricians working in the community, different sorts of care settings, investment in housing in order to make it safer to stay at home for longer or to use telehealth to monitor wellbeing, home care workers, and genuine community support from communities themselves? Do we understand how much of that demand is avoidable and what we would need in

order to be able avoid it? I think that the answer is no.

10:00

We are not alone in that, and it is not a criticism of this Government, because this is hard and complex stuff. However, that is the work that is needed in that one example and in the range of other things for which we want to improve outcomes by preventing problems from occurring in the first place.

**John Mason:** Mr Sinclair, did you want to say something?

**Douglas Sinclair:** I was going to make the same point about crime and the criminal justice system. Reducing criminality is the responsibility of the police, but the causes of crime are outwith the control of the police. Bad housing, poor education, bad parenting skills, poor health and bad planning are areas where community planning can make a difference with preventative work. How many people have got into the criminal justice system because of those factors further back in their lives? If they had been addressed further back, the number of people who commit offences might have been reduced. That is the essence of a longer-term approach to community planning.

**John Mason:** I wonder whether we need any more study. The suggestion seems to be that we need to look at this more and understand it more, but we agree broadly that we all want preventative spend. Your own "Community Planning" report says early on that

"discussions about targeting these resources at their priorities and shifting them towards preventative activity are still in the early stages."

If we are serious about shifting resources, do we not just have to say, for example, that the spend on hospitals and on accident and emergency will come down 2 per cent next year, and that money will go to preventative spending—or general practitioner practices or wherever we want to put it? Do we not need somebody to make that kind of hard-edged decision?

**Caroline Gardner:** In a sense, yes, we do. I am not suggesting that we need more research evidence or more studies. I am saying that, in each part of Scotland, we need that very clear understanding that says, "This is what we are going to shift, and here is how we are going to do it."

It may be that in some parts of Scotland the answer is to say that we collectively agree that we are going to spend 2 per cent less on the hospital as a whole or on A and E, and we will spend that money on something else. However, that needs to

be a collective decision that is based on what it is likely to do to A and E waiting times, demand for social care and the ability to respond quickly to keep people at home.

Sticking with that example, the problem is that, if you do not do that thinking, you actually cannot take 2 per cent out of A and E, because people will keep turning up at A and E with real needs.

**John Mason:** Are there people turning up at A and E because we keep putting more money into it?

**Caroline Gardner:** I would say no. I would say that it is because we are not putting money into the alternatives.

In the Audit Scotland report "Reshaping care for older people" from last year, we have a great example from Perth and Kinross of the councillors working with the health board to use data to home in on the relatively small group of older people who keep being readmitted to hospital and getting stuck there, to work with their GPs to understand what would help to keep those people at home, and then to invest—on a quite small scale—in the services that the GPs, home care workers and social care managers think would be needed. Trends that can be seen in the data can help us avoid those admissions, keep people safer and give them a higher quality of life at home.

The challenge comes when we try to take that money out of the health service and put it somewhere else, because the focus is on how many patients are being treated, how many are discharged from A and E within four hours, and the length of time that people are waiting for elective treatment. We can make small changes at a local level in exactly the way that we discussed but, if I were the chief executive of the health board, I would be concerned about something that was going to blow out of the water my performance against the HEAT targets, without there being an understanding of what the impact might be and a wider acceptance that we need to think about whether all the things that we are trying to achieve are coherent and consistent.

**John Mason:** As the politicians, should we just make the decision that, for example, for five years we are going to be relaxed about A and E targets all being missed, because we are putting that resource into something else? Is that the leadership that we need to give?

**Caroline Gardner:** I am not the politician—I am an accountant.

**John Mason:** So am I.

**The Convener:** Allegedly. *[Laughter.]*

**Caroline Gardner:** I would not say, "Let's be relaxed about missing the A and E targets"—I

would step back and say, “Is 95 per cent within four hours the right target?” Is there a clinical reason for it? Would it make sense to say that the target is 90 per cent within four hours and work towards that, or to differentiate between different types of people? Could you come at the situation in a different way, and say, “Do we really understand how many of the people who turn up at A and E need to be there?” Could there be a much lower level of support, using NHS 24 or GP walk-in centres more effectively?

The Public Audit Committee has recently been looking at Audit Scotland’s work on A and E. There is very poor information on people who self-refer to A and E and the reasons why they are there. There is a sense of not knowing enough at a local level about what the current demand is so that you can identify what can be diverted altogether and what you could treat better by going upstream and doing prevention work.

**John Mason:** Those are fair points. Going back to CPPs, if a CPP in any area decided that it would, as a whole, like to shift out of secondary care into primary care, would it have any power to make that decision?

**Douglas Sinclair:** No, but it is an interesting point. There is a provision in the Local Government in Scotland Act 2003 that would allow a CPP to apply to the Scottish ministers to become an incorporated body: in effect, to become a statutory body. None of the CPPs has ever applied to do that.

One part of a CPP cannot dictate its priorities to another part. The council has priorities, and the health board has priorities. It is at the margins, where the budgets overlap, that CPPs can make a difference. I still feel—I think that we both do—that a CPP can still make a huge amount of difference by focusing on those areas in which budgets overlap. That is a first step.

**John Mason:** Effectively, then, you are saying that each member of a CPP has a veto over its own budget.

**Douglas Sinclair:** Unless they are prepared to agree. There is also an issue with the health board representatives and their accountability to the minister. What authority does a CPP have to gainsay what the minister wants to do? That is where things get really difficult.

One CPP that is well advanced has to some extent arrived at that point. It wants to move further forward, but there is a limit to the degree of discretion that it has as a CPP. Do you follow what I am trying to say?

**John Mason:** Yes.

**Douglas Sinclair:** That applies to ministerial direction and indeed to the priorities of other partners round the table.

**John Mason:** I will take Glasgow as an example. All the other partners agree that there should be a shift out of secondary care into primary care, but if the health board feels, under pressure of whatever kind, that it cannot do that, it is not going to happen, is it?

**Caroline Gardner:** There is nothing to stop the agreement being made if all the partners sign up to it—

**John Mason:** But it has to be 100 per cent.

**Caroline Gardner:** It has to be 100 per cent. I think that it would be a brave health board chief executive who was willing to say, “Don’t worry—the HEAT targets are what I’m held accountable for, but I’ll manage them”, because it is clear that such a shift would have an impact on the short-term targets and the need to break even every year on revenue and capital, and that is what the chief executive is held to account for by the cabinet secretary.

That accountability is very clear and there is nothing wrong with it. What we have questioned in our NHS reporting is whether the short-term targets and the financial targets are compatible with reshaping care to move towards prevention for older people.

**Mark McDonald (Aberdeen Donside) (SNP):** I want to touch a bit more on the discussion around inputs versus outcomes, and on whether we are looking at the right things. With regard to the shift that you feel needs to happen, who do you envisage leading the discussion? Surely you would accept that it is very difficult for a Government to turn round and say, “Actually, we probably shouldn’t worry too much about that target area. Our focus should be over here.” You can see the narrative that would follow from that. What view do you take on where the leadership on that discussion needs to come from? How do you achieve buy-in to that discussion?

**Caroline Gardner:** I think that it has to operate at all levels. Clearly the Government has a central role: Government policy directs, and should be directing, what all the other public bodies do, and what they do in partnership. By setting clear directions and taking a longer-term view, the outcomes approach has been a really strong move that has helped to build people’s thinking about what public services are for and how we make best use of the £40 billion or so that we spend on them every year.

As we say in our report, there is more for Government to do to ensure that the policy making to allow us to move towards those objectives is

aligned and joined up, and takes account of what the impact of individual policies will be on each of the outcomes in bringing about that joined-up scenario.

Equally, as we have been discussing, there is work that can be done only at a local level—at the community planning partnership level and more locally than that—to understand what the needs are, what resources are there and what the local characteristics are, such as remoteness, rurality and deprivation. Across the piece, though, in this context we probably need more of a type of leadership that says, “With the resources that we have, we can’t do everything. We have to make choices and here are the choices that we are making.”

We know that politics is not easy—it is what all of you do every day—but there is something to be said for opening up the conversation with the public about the choices that we have to make as a society and the trade-offs that are involved in that. For example, although we all have a strong attachment to our local hospital, that may not be the best place for most of us most of the time. There are some things that can happen only in a hospital but, for most people, other sorts of care and support are likely to be better.

The challenge is to move away from the short-term tendency of Government and the other political parties—the Opposition parties—always to focus on the thing that we are losing rather than the thing that we are gaining in a shift to prevention. That is a tough one to crack and it is not something that we can help with much, apart from providing more information to inform the debate.

**Mark McDonald:** I appreciate the point. I remember, from my time in the council chambers, that we had our statutory performance indicators, which were things that we had to measure. There were the key performance indicators, which linked to key council objectives, and there were discretionary indicators, which members would occasionally request information on at meetings. At one meeting, I asked why we measured a particular indicator and the response was, “Because we have to.”

Has enough work been done to evaluate the broad suite of measurements by local government and health boards and so on? It would really help, in any discussion that takes place, to have some kind of bedrock of work that says, “Here are the things that are being measured. Here, essentially, is the value of those measurements to the shift to a preventative agenda.”

**Douglas Sinclair:** I can kick off on local government and Caroline Gardner can come in on the rest of the public sector.

The point that you made about measuring it because we are told to measure it was probably true in the past. The Accounts Commission never felt comfortable with specifying performance indicators because the ownership did not lie with councils. Are you with me? They were doing it because the Accounts Commission had told them to do it. Three or four years ago, we told the Society of Local Authority Chief Executives and Senior Managers and COSLA to take ownership of that. We told them to take responsibility for benchmarking and to develop the performance indicators. I think that there is still a bit to go to ensure that the indicators are what the public necessarily want to know. Do you follow me?

**Mark McDonald** *indicated agreement.*

**Douglas Sinclair:** What are our priorities for the public? For example there is no performance indicator on the cost of burials, which is an issue close to people’s hearts. However, that has improved, and SOLACE and COSLA have developed benchmarking families of councils. We have seen local government take ownership. To some extent, it resisted that to start with. Councils were a bit wary about the fact that information about their performance would be in the public domain. It should be in the public domain, though. The public have a right to know how well councils are performing, not only against comparable councils but over time. They need to know whether the council is improving. That has been positive shift, but there is still a way to go.

There is scope for developing performance indicators in relation to community planning, too. Some initial work has been done on that. The ownership is with the councils, and we can transfer similar ownership to community planning partnerships, so that they start asking, “How are we performing? How do we compare with a similar community planning partnership?” That is a direction of travel that we should all support.

**Caroline Gardner:** I entirely agree. Following on from our report, the national community planning group is leading a review of the various frameworks that the partnership bodies are all using or are required to use in relation to performance monitoring, reporting and accountability. The aim is to look for opportunities to rationalise those frameworks, first of all, and to ensure that they are measuring the right things. That is a positive move. Those frameworks will clearly need to be able to flex to reflect the local priorities that individual partnerships have set themselves. They also need to link into the non-partnership frameworks such as the HEAT targets and the targets that Police Scotland is operating to, where there is at least a risk that the targets that an individual body is operating to conflict with or are in tension with those that the partnership is

working to, because we need to be clear about how we are going to resolve those tensions.

10:15

**Mark McDonald:** In just over a year's time, there will be a Scottish election. The following year, there will be a local government election. Obviously, it is much easier to go to people and say, "Here is what we have done and here is what has been delivered" than it is to say, "Here is what we have done and here is what we expect to be delivered in five to 10 years' time." Do you think that preventative spending is a hostage of the electoral cycle?

**Caroline Gardner:** I do not think that it makes it any easier. Currently, we can see that all parties are focused on issues such as accident and emergency waiting times. Previously, they were examined quarter by quarter, then they were looked at monthly and, increasingly, they will be examined at even shorter intervals. In the future, they will probably be looked at in real time, as technology makes that more possible. It is therefore important that all of us exercise the leadership that we were talking about before. We should not lose sight of those measures, but we should think about them in the context of the bigger outcomes that we are trying to achieve and should understand trade-offs between them and not let the short-term temptations get in the way of the ability to do the longer-term things for the good of the people of Scotland, who we are all here to support.

We are never going to do without politics. No one is suggesting that. It brings all kinds of benefits and consequences with it, but trying to move the debate on to the longer-term issues and being clear with people about the choices that have to be made is what politics is all about. The trade-offs that are involved in that are one of the counterweights to the focus on what you can measure today rather than what might be different in 20 years' time.

**Richard Baker (North East Scotland) (Lab):** You have both talked about the need to shift resources and the difficulty in doing so and in taking some of those challenging budget decisions. However, in addition to that area, where there needs to be progress, is there more that could be achieved through innovative approaches to funding through partnership working or other means? For example, a few years ago, all the talk was about social impact bonds, which involved a public sector agency borrowing against the anticipated savings that would result from, for example, projects to reduce reoffending. From what I can see, that does not seem to have flown. Do you know why that is? Are public sector agencies and Government doing enough to

consider more innovative approaches to funding preventative measures?

**Caroline Gardner:** For obvious reasons, we have talked a lot about politics this morning. The sort of political considerations that have come through our discussion several times today are part of the reason why initiatives such as social impact bonds are difficult to make work in practice. There are uncertainties with that sort of approach, there is an inability to bind future Governments and there is a lack, in many cases, of a real alignment with what people are trying to achieve. Further, the extent to which the financial return and the social return are the same thing is something that we do not understand well.

Having said that, I am sure that there is scope for more innovative types of funding in different ways in different places. A lot of thinking is being done in Government around different types of bond financing for housing, and I know that there are some good examples of early innovation in that regard, with the aim being to get more investment in ways that compensate for the market failures that are at the heart of housing problems in the United Kingdom and to allow more investment than the constrained, short-term picture would allow for. That is one example, but that probably would not work elsewhere.

There are other examples, such as the change funds for early years and for older people's services. We have done a fair bit of work in relation to older people, and we think that the way in which those change funds have been used demonstrates that people are not really thinking about the way in which it is possible to lever change from the relatively small amount that is available in the change fund each year—there is about £300 million over four years, as compared to the £18 billion that is being spent on health and social care over the same period. I think that, if you were to say, "This is the amount we've got to lever change," and ask where would that have the most impact rather than where people could respond most easily, you might be able to get more change as a result of that. It is a good example of the inconvenient fact that no one solution fits all, but I accept the point that we need to think about how we can do things differently if we are going to square the circle.

**Richard Baker:** In relation to innovative approaches to funding mechanisms to finance that kind of approach, you are saying that the problem is short-term thinking and the inability of Government, CPPs or whatever to take a longer-term approach—for example, a 10-year approach—to that kind of measure.

**Caroline Gardner:** I think that it is partly that but also partly the fact that we have not yet got a clear enough understanding of the bigger picture

that we are trying to change. There is no doubt that the £70 million that was spent in 2011-12 on the change fund for older people made things better in some places. However, there is a big question mark over whether it helped us very much in reshaping care in the ways that the convener and Mr Mason were asking about. We need to think about how innovative funding can lever change rather than do good things at a local level or, as Douglas Sinclair has suggested, prop up budgets in some cases.

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

My question follows on from what you have just said. You said earlier that we need to open up the discussion with the public much more, and that is something that interests me. In the area that I represent, there are some extraordinarily good examples at a very local level of people taking action themselves to address the problem and being committed to be involved in finding answers to problems. However, my experience of community planning partnerships and their relationships with the public has not been thrilling. The problem is not that they are not making things work; it is that—I wonder whether this is right—they often have an obligation to present a report to the public about what they are doing, hear about the problems and somehow go away and solve them, instead of having a genuine dialogue with ordinary people and hearing what their solutions might be.

**Caroline Gardner:** That is spot on. What you are suggesting is the driving force behind the Community Empowerment (Scotland) Bill, and we have not seen many examples of that really open sharing of a problem, with CPPs saying, “This is what we are trying to reconcile. We have this much money and this many older people, who are this much older than they were in the past. Here is our vision of how we could do things better—tell us what you think.” For understandable reasons, people in public services are often wary of talking about the problems as opposed to the successes. I understand why that is the case, but it tends to be self-perpetuating. In my experience, when people have been open about the challenges, members of the community have understood that—we all face the same sort of issues on a much smaller scale in our personal lives and recognise that public services cannot do everything that we might like them to do.

Back in 2012, I think, my predecessor as Auditor General, Bob Black, took part in an exercise of citizen juries at which he presented information about the public finances, their likely trends in the future and the sort of choices that were likely to result. The people who took part in that exercise found it fascinating to hear why we cannot carry on building hospitals like the Southern general hospital around Scotland as the answer to our

health and social care problems, and they got very engaged. They started to think about what we could do differently, what mattered most to them, what they valued about their hospital and how they could get that somewhere else.

There are community groups that can do that, and technology makes it possible to open up the dialogue more widely than was possible in the past. The churches and faith groups can also play a role as part of the solution to the problems. There is room for much more such innovation than we have seen so far, and I personally do not think that there is an alternative. We are reaching a stage in the development of our society at which we have to be more frank about what is most important to us and what we are going to trade off for that, or the politics will get increasingly sterile.

**Douglas Sinclair:** I agree with that. To some extent, the debate between councils and communities has been a bit one dimensional: it has been about a choice of cuts, rather than people's views on how services might be provided in a different way.

There are some good examples. Orkney community planning partnership has, though the council, been discussing the possibility of local communities taking on some of the council's responsibilities in order to keep services going. With budgets getting tighter and choices getting harder, the need to engage more with communities to get their views, not only about priorities but about how services could be delivered in a different way, is more important now than it has ever been.

Councils are doing well at satisfaction surveys, but they are not good at considering the user experience. What was the quality of people's experience of contacting the council? How could it be improved? What can we learn from that? How can we make improvements to that? It is really important for councils, health boards and all public service partners to develop more of that—listening more to people in the community and understanding that they have interests, that they understand the realities of finance and that they have the opportunity to influence the shape of services. That is precisely what the Christie commission discussed: that services should be designed around the individual and the community, rather than by the producer.

**Jean Urquhart:** Is there a need to be much clearer in our communities about how agencies operate? As we all know, some community councils work extraordinarily well, and they achieve quite a lot in their communities with very little. There are others that people do not engage with.

How do we view the role of that kind of democracy right through the piece? How should that be written in at a Government level so as to encourage councils to make a shift away from an understanding that public consultation means asking people whether they want their library or whether they want snow clearing or whatever towards a much greater engagement?

**Douglas Sinclair:** There will be new duties on each of the community planning partners under the Community Empowerment (Scotland) Bill. One of the bill's weaknesses is around what happens if one partner does not play their full part. There do not seem to be any default powers in the bill to say, "That wasn't good enough. Where is the accountability for that?" That is why we have argued that COSLA and the Scottish Government need to develop a national planning framework, so that we can, to some extent, hold community planning partnerships to account for how they perform. That would be helpful.

Part of the issue concerns how we train professionals in colleges and universities. The customer is not viewed as the most important person in the process. Dealings with planning officials can involve inflexibility, rather than seeing a problem from the point of view of the person who has applied for planning permission, for instance. There is a need to improve the quality of training and the understanding within public bodies of who comes first: it is the user. We will not satisfy the user every time, but the point should be to try and find a way round the problem, rather than simply saying, "No, we can't do it." That is a difficult process.

That is not made easier by councils being in a difficult place. They have to balance their budgets by law, so they are looking for savings. I think that they look for savings first, rather than asking whether there is a different way of doing things that can achieve some saving while keeping the service going in a different way. It takes time to change that mindset.

**Gavin Brown:** Representatives from every department in every organisation that has given evidence to us will in effect say that we should not touch their budget, because what they do involves preventative spend. Is there an Audit Scotland definition of preventative spend? If not, should there be?

**Caroline Gardner:** There is not. You will not be surprised to hear that I do not think that there should be one. For me, it comes back to our earlier conversation about the organisations themselves and their claims that it should be possible to show how what they do is preventative.

For example, we were speaking about the fire service earlier. We know that there has been a

huge reduction in deaths from fire over a long period, which is a huge success story, and which raises important questions that the fire service is grappling with about what it is for now.

I am not sure that we know enough about what has led to that reduction in fire deaths and whether it is because of the great work that the fire service has done in going out and advising on fire safety, different building standards or the greater use of oven chips rather than chip pans. I do not know the answer to that question, and I would be interested in whether the fire service does. Without such information or parallel information, it is a push for organisations to expect us to believe that their spending is preventative. That is not to say that we can pin down every pound, but people should be able to say that they are doing things because they prevent other things, in the way that Glasgow is starting to be able to do around its community planning process.

10:30

**Gavin Brown:** I did not think that there was a definition of preventative spend, but it strikes me that, unless we get to some form of consensus on the matter, we will just accept everybody's definition and it will be harder to move forward.

You know that the committee has been pretty interested in disinvestment. Caroline Gardner referred to that in one of her first answers. Have you seen any positive specific examples of disinvestment in the work that you have carried out? You gave some good examples of collaboration and people talking about how they can make money go further where services overlap, but do you have any good concrete examples of disinvestment?

**Caroline Gardner:** The best example to which I can refer you is the one that I touched on earlier, on reshaping care for older people in Perth and Kinross. There is a lot of anecdotal evidence around, but we have looked at that example quite closely. Three things are interesting about that example, the first of which is the extent to which the approach is based on strong and local—almost individual—data to understand where the problem is and where the most difference can be made.

Secondly, the approach is very collaborative. It does not do to people; it is a matter of sitting down with the GPs and the GPs with their patients, who are the people who are affected, and talking about what would make a difference.

Thirdly, the approach requires very close joining up between the council and the health board to understand where the money will come from in the short term if there are not reductions in the spend in the hospital this year, as there may well not be,



and what the understanding is in the longer term to make the bigger shifts that will allow reinvestment.

That is a strong example that depends on each of those three factors. I am sure that there are other examples, but I point the committee towards that one.

**Douglas Sinclair:** There is the example from Falkirk. Again, the health board and the council came together, consulted communities in Bo'ness, if I remember correctly, and enabled people, in consultation with them, to live much longer in their own homes, thus reducing the demand on public money.

I want to go back to the point about the definition of preventative spend. If there is a definition of that, everybody will claim that everything that they do is preventative, and that is a slippery slope.

**The Convener:** The Scottish Government and COSLA said in their "Guidance for new SOAs" that preventative approaches are

"Actions which prevent problems and ease future demand on services by intervening early, thereby delivering better outcomes and value for money".

That was quite simply put. What works Scotland also has a definition, of course, which was provided by Nesta. It said:

"Preventative approaches are those which intervene to curb the development of social issues and challenges. When preventative programmes are targeted at solving well researched problems and are strategically led and delivered, they can have an enormous impact on service delivery, providing a cost effective use of taxpayers' money."

Therefore, we have a good idea of what we are trying to achieve through those two definitions.

**Gavin Brown:** I have no more questions, convener.

**The Convener:** Thank you very much, Gavin. I also thank colleagues around the table.

Before I wind up the session, are there any further points that Caroline Gardner or Douglas Sinclair wishes to make to the committee?

**Caroline Gardner:** No, thank you, convener.

**Douglas Sinclair:** No. I am fine.

**The Convener:** Thank you very much for your evidence, which has been fascinating.

We will suspend for a couple of minutes to allow a natural break for members and a changeover of witnesses.

10:33

*Meeting suspended.*

10:36

*On resuming—*

**The Convener:** We continue our consideration of preventative spending by taking evidence from Professor James Mitchell and Professor Kenneth Gibb, from the what works Scotland initiative. I welcome both witnesses to the meeting and I invite one of them to make a brief opening statement.

**Professor Kenneth Gibb (What Works Scotland):** Thank you, convener. I will say a few words to amplify the executive summary of the paper that we provided to the committee.

The what works Scotland initiative is a collaborative venture by the University of Glasgow and the University of Edinburgh, but it is really a network of academic and practitioner partners from across Scotland. Essentially, we are involved in trying to develop, use and understand evidence to make better decisions about public policy development and reform. We are funded by the Economic and Social Research Council and the Scottish Government. Our starting point is the Scottish approach to public policy and, clearly, prevention is at the heart of that.

As we say in the executive summary and as was discussed in the previous evidence session, our view is that although prevention is by no means a new idea, it is now central to the Scottish approach. As we heard earlier, there seems to be a large degree of consensus about the aims and objectives of prevention. The problem is that, when we start to dig into the issue, it starts to get much more complex.

I will not say any more about definitions of preventative spending, as the convener has just talked about them. However, I add that we see prevention as a question or a classic wicked problem. It is hard to pin down a definition of prevention and work out exactly what to do about the problem, as it is understood. The framework of the causality between the nature of the problem and the solution can often be difficult to unpick, and it is situationally specific: it depends on the place, the sector and the time period that we are looking at. That means that there are probably no general silver bullets or single answers to the question, but there is a need to empirically examine as we go along each issue in each realm around a set of general principles.

In our paper, we look at a number of illustrations of evidence from academic sources and grey literature evidence. James Mitchell can talk about them later, if that would help. For my part, I have

been quite interested in the economics of prevention; in particular, I have looked at some of the interesting work that NHS Health Scotland has done recently on how prevention could be used to address some health inequality issues. That work suggests that there are cost-effective routes to and ways of reducing inequality but that, as was indicated in previous evidence sessions, it is often hard to find savings, target them, ring fence them and then use them in a preventative way. That is often where the challenge comes from.

In paragraph 1.10 in the executive summary, we stress the need for caution on short-termism. The wicked problem nature of a lot of prevention issues makes it hard to pin down a timetable for outcomes. We think that one of the ways in which we can make progress on prevention is to embed it in the culture and nature of organisations as a process. As someone said previously, changing the mindset to make prevention part of the everyday life of public sector delivery is probably a more compelling way to move forward. That is about how we embed the concept in institutions and in the leadership of those institutions, and how we make prevention part and parcel of the way in which parties such as community planning partners collaborate.

There is an interesting discussion by the New Economics Foundation about the principles of prevention. On the last page of our paper, there are four bullet points from the NEF that highlight the challenges that exist in trying to embed prevention in the system and transition towards a greater use of prevention. That is about trying to measure the benefits, costs and trade-offs of prevention in comparison with standard practice, and trying to better understand the cultural, social, economic and political barriers to prevention. It is about trying to build alliances around prevention, which involves engaging organisations' leaders, politicians and citizens in a public debate, and trying to stimulate a wider debate about the whole purpose of prevention.

There is a lot more in our paper, but I hope that that gives a flavour of it to get us started.

**The Convener:** Thank you very much for that. You are probably aware of the way in which the committee works: I will start with some opening questions, and I will then open up the session to colleagues, who may explore specific areas in greater depth.

First, I have a follow-up question on your comment in your opening statement about the need to embed prevention. Why is it not embedded already? As you said, the concept of prevention has been discussed for years—our committee has been dealing with it for five years. Why is it not routinely embedded in Scottish public life?

**Professor James Mitchell (What Works Scotland):** That question is very important and gets to the heart of one of the big issues. There appears to be consensus—I think that there is genuine consensus—in favour of prevention, and there is therefore a paradox: why is prevention not prioritised, and why are we not moving forward? We need to ask what is going on here.

One reason is that prevention sits alongside other competing demands in public services, such as enforcement, triage, immediate response and so on. There are all sorts of pressures on our public servants, and prevention is but one. It is often not seen as the number 1 priority, partly because it is difficult to measure and because it is difficult to show that it is being achieved.

In truth, given the way in which our politics operates, we prefer to look at the things that are easy to measure. We look at targets—for example, Caroline Gardner spoke about HEAT targets and so on. The issues that are being discussed in the chamber or the press today in relation to the upcoming election will include waiting times, targets, police numbers and such like. Our political culture—this is not the fault of any individual, and certainly not of political parties or of Parliament—means that we tend to focus on those matters at the expense of prevention. To be honest, I think that one of the biggest challenges is the need to change not only the political culture but—going back to what Douglas Sinclair said earlier—the culture among public servants, including how we train our servants and how we deliver services, and how we think about all those things.

There is a lot of talk, and I think that there is genuine consensus in favour of prevention, but ultimately I am not sure that we prioritise or reward it. It is very difficult to do those things.

**The Convener:** Given what you have said and the seemingly endless discussions that the committee has had in trying, year in and year out, to move the issue forward with a host of different organisations, including the Scottish Government and local authorities—you name it—is there an argument that budgets to deliver prevention have to be ring fenced? There are change funds and so on but, as we have heard, they are often named as prevention but used to subsidise other services. Is there a way in which we could deliver additional or specific resources that cannot be touched for anything else in order to deliver the long-term benefits that we all want to see?

It is understandable that, when budgets are extremely tight and people have to deliver on all the measures that we have already discussed this morning, we deal with immediate issues rather than think about what will make Scotland a better place in five or 10 years' time. Is that a potential

way forward, or, as I suggested to the previous witnesses, will we be having the same discussions in five years' time?

10:45

**Professor Mitchell:** In five years we will be having the same discussions, because it is an on-going thing.

**The Convener:** I hope that those discussions will be at a different level.

**Professor Mitchell:** One would hope so. I listened to some of the earlier discussion about housing. I remember when, perhaps 30 years ago, Harry Burns was in Glasgow making the point about the need to improve Glasgow's health by putting money into housing. That was a radical and bold suggestion from a man from the health sector. I am conscious that it is an issue that we have been struggling with for a long time. It comes back to that paradox: we all agree that it needs to be done but it does not happen.

Ring fencing is worth looking at, but I have two observations to make on that. First, there is always the danger that some people in the public services will label something as "prevention" and carry on doing exactly what they were doing before. That might sound cynical, but it is the reality. Secondly, ring fencing will not solve every problem. It could be part of a solution but it may not be the most appropriate solution in certain circumstances. Cultural change is important and we need to look at the institutions.

I will hand over to Ken Gibb on this, but there is a major problem in terms of finances. We have structured our finances in silos. For the reasons that Caroline Gardner gave earlier, it is quite rational for people who work in local government, health, the police and so on to respond up the level within their organisations, rather than thinking collaboratively and preventatively. That is a major issue.

I would like to see a bit more experimentation. We should try to encourage innovation at a very local level. We do not necessarily want to have a massive overhaul of financial structures, but we need to look at the issue and identify local areas where people would be willing to innovate. In the past, the islands have been among the most innovative and willing to take up the challenge. I am not sure whether the islands would want to take up the challenge that I am laying down here, but we need to see some sort of innovation.

**Professor Gibb:** I would add that, from an economics point of view, there are issues with incentives. What is the incentive within a community planning partnership to act collaboratively, given what James Mitchell has just

said about the nature of individual organisational budgets and accountability, as well as the point that was made earlier about the fact that community planning partnerships lack a statutory basis, which compounds the problem? What is the incentive for people to behave in a more collegiate way so that funds can be ring fenced and savings can be made? That is a challenging thing to do and might be worth—

**The Convener:** I am sorry to interrupt, but what should the incentives be?

**Professor Gibb:** What I mean is this: how can we encourage people to behave differently?

Recently, James Mitchell and I have been talking about the way that things are done to save money in other walks of life. In the construction industry, for example, there might be a pooled savings fund, so that if someone can cut costs in the construction process, the partners to that savings fund can benefit. I am just thinking about the principle. Are there ways in which benefits can be pooled and redistributed? How can we encourage individuals to change the way that they behave?

A key issue is the annuality of budgets. It is harder to make decisions that are about longer-term timescales in such a short-term budgeting context. There is a sense in which the overarching public finance structure militates against what we are trying to do. That creates a present bias, which means that people do not want to take longer-term decisions.

**The Convener:** I used to work in a large private sector company, which had a staff suggestion scheme about how the company could be made more efficient—and naebody made any suggestions. However, the company changed the scheme so that, if somebody's suggestion was adopted, up to 10 per cent of the money saved could go into their salary, and an avalanche of suggestions poured in, many of which were implemented and saved the company money. I appreciate how incentives can work.

**Professor Gibb:** It is context specific and clearly depends on the type of issue that we are contending with.

**The Convener:** Absolutely.

You talked about—and I mentioned—the fact that, even if we set up a ring-fenced budget, people can just name it prevention and do exactly what they did before. In paragraph 1.10 of your submission, you say:

"Scrutiny might be more fruitfully deployed to investigating the embedding of processes that will promote prevention and support its implementation and help transition 'losers' from the process."

In effect, we need much more effective scrutiny of how prevention is delivered, how we disinvest and how budgets are redeployed if change is to happen. Do you agree?

**Professor Gibb:** Yes. We were struck by the Dundee partnership model, which we mentioned in the submission. That was about trying to get the totality of an organisation's staff—from its leaders through to the implementers and street-level bureaucrats, as it were—to have a sense of how their budgets were divided between broadly preventative and non-preventative, or upstream and downstream, spend. To think in those terms when developing strategy for organisations and delivering at operational level is part of the culture change that we have been trying to pursue, so it is a long-term game.

**The Convener:** In paragraph 1.7, you say:

"The economics of prevention suggests that the costs, benefits and trade-offs of prevention have to be clearly understood in each instance".

The implication is that they are not understood at present. Is that right, and how do we change it? Jim Mitchell talked about culture change, but how do we ensure that those benefits are clearly understood?

**Professor Gibb:** From looking at the literature on the health inequalities work that Health Scotland has done, it is clear that that is difficult. There are a number of steps that you would want to achieve in principle. They are about isolating where the prevention savings can be made, holding on to them and reallocating them.

A lot of assumptions are involved in that, and the Health Scotland evidence review suggests that there is quite a spectrum in relation to people's ability to do that, not only in Scotland or the UK but throughout the world. However, as the New Economics Foundation also said, it is a necessary condition—an essential step—of trying to get to where we want to be. Our view is that it is uneven.

**Professor Mitchell:** When we emphasise prevention, we are often asking public servants to do themselves out of a job, because it is conceivable that, if they succeed, we will not need their services or other services.

One of the interesting prevention successes is the fire service. We can argue about the extent to which that success is preventative or due to other factors, as we heard earlier, although there is evidence that there has been a significant shift to prevention in Scotland, certainly in the service's behaviour. In the old days, a fire officer saw his or her job as climbing into a big, red van with blue lights flashing and being a hero who puts out fires. That remains part of the job, but a huge part of the job, which has shifted over a long number of

years, is to get out into communities and prevent fires.

We must acknowledge that there is a danger that, if the fire service succeeds, questions might be raised as to whether we need so many fire officers, fire stations or watches. People are very aware of those issues. Enormous credit is due to the fire service for that shift. One has to look further and ask what the consequences of being successful are. All credit is due again to the fire service because it is constantly reconsidering its role, broadening it out and viewing the service not simply in narrow terms as we did in the past but as a public service.

That relates to some of the other work that we are doing. We must try to shift towards an understanding of public service within which people have specialist expertise, whether fire officers, police officers or the various health professionals. That much more embedded notion of a public service is hugely important and, I hope, would contribute towards a general shift. Collaboration, prevention and efficiency are all interlinked.

**The Convener:** I know that you are a couple of hip young dudes, but where did the phrase "wicked problems" come from?

**Professor Mitchell:** I think that the phrase was originally used in an article that was written in 1972. [*Laughter.*] It has been defined in different ways, but in public policy it is understood to refer to problems that are multiple in nature and cannot easily be resolved, and on which there will be many competing perspectives on how to resolve them. That is why we see the whole prevention agenda as a wicked problem.

**The Convener:** I open the session to colleagues. The first member to ask questions will be John Mason.

**John Mason:** I suspect that we will ask some of the questions that we asked the previous panel, but you can perhaps give us a slightly different angle in your responses.

Mention has been made of CPPs. I think that it was Professor Gibb who asked who has the incentive to act collegiately. I got a clear answer from the previous panel to the effect that CPPs are voluntary and that, even if nine out of 10 partners agree on something, they cannot force the 10th partner to do it. Should we give up on CPPs and get the Parliament to show leadership? Alternatively, should we give CPPs more powers?

**Professor Mitchell:** With all due respect to parliamentarians, I would not give the Parliament the power. The issue must be addressed at a local level, not least because there are a number of wicked problems that are diverse and will require

local responses. In respect of that, I would not give the Parliament any more power. If anything, I would recommend that more power be devolved.

There is an issue with how we encourage collaboration. I would not get rid of CPPs. I would like to think that we could move towards a situation in which CPPs are encouraged or even forced to work much more collaboratively. The fact that the model that we have is, in effect, a voluntary model carries with it all sorts of problems. There would also be problems if a multipurpose authority were created and local government were given responsibility for all these areas. Although that might solve one problem, it would undoubtedly create other problems, so we need to be careful. However, you are right to identify that the nature of the interinstitutional relations is a key part of the problem.

**John Mason:** I am at the stage at which I want some action to be taken. You talked about there being a need to “empirically examine” every issue. That suggests yet more studies being carried out. My suggestion was that someone could decide to take 2 per cent off A and E or hospital spending and put it into primary healthcare. At the moment, a CPP could not make that decision if it wanted to, so either we must make it or we must give CPPs more powers so that they can make it. Are both those actions options?

**Professor Mitchell:** They are certainly options. Ultimately, something like that might have to happen, but I do not think that that should involve giving the Parliament more power. You already have the power to take such action. I think that the Parliament and the Government have a responsibility here, as targets such as the HEAT targets come from the centre.

I return to the point that I made at the start of my evidence about the competing nature of public policy. Prevention is only one aspect of that. If there is no emphasis on prevention and we expect health boards and local government to deliver on X, Y and Z—teacher numbers in schools, for example—we will limit what they can do. Frankly, my inclination would be to give local authorities more autonomy to make decisions. In addition, we need to look at the relationship between outcomes and targets. There is ample literature that demonstrates that people will play games when it comes to targets.

There is also evidence that targets are proxies and that they do not necessarily deliver outcomes. We still have some way to go in understanding the importance of outcomes. When it comes to outcomes-based public policy, we do a great deal of talking but far less doing.

**John Mason:** The committee has sensible discussions about matters that we all agree on—I

think that we all agree with what you have just said—but we then go into the chamber and all shout at each other.

**Professor Mitchell:** I cannot do anything about that. It is for you to do something about that.

**John Mason:** I accept that.

**Professor Mitchell:** You raise an important issue about leadership. I would love the committee to continue the work that it is doing and then go into the chamber united or as one to make those points. That would enhance the status of committees and would probably move the debate on. However, I am not naive enough to think that that will happen just because it has been suggested by me or anybody else, because you are under other pressures. You have an election coming up.

11:00

**John Mason:** We have shifted the budget in other areas. The obvious example is the shift from revenue to capital expenditure. It has been pretty much agreed across the board that we will just take a certain amount from revenue, which we could spend on nurses or other things, and put it into infrastructure and buildings. That has been seen as a good thing. If I stand up and say, “Let’s take 2 per cent off A and E and put it into community health,” would that be a good way of doing it?

**Professor Mitchell:** I am not in any way qualified to comment on that particular example, but the committee would need to agree on that. If the committee were to agree on that and moved in that direction, that would be worthy of enormous praise. Frankly, that would be a phenomenal result, and I would love to see that. I will not comment on the 2 per cent example that you gave, because I do not know enough about that, but that approach would be wonderful.

**John Mason:** It was just off the top of my head.

**Professor Mitchell:** Indeed.

**John Mason:** Professor Gibb, do you want to say anything?

**Professor Gibb:** I want to go back to your initial question, which was about localism versus the Parliament. In a sense, CPPs reflect the notion of a place-based policy, and that local level is the place where different services are being joined up and are trying to work together. It seems intuitively reasonable that that needs to be done from the bottom up, so that there is understanding of an actual place, rather than from Edinburgh.

In at least three of our four in-depth case studies, we are finding that the local authorities are delving deeper into the local level. In Glasgow,

West Dunbartonshire and Fife—in Aberdeenshire, too, so it is in all four areas—the CPPs are trying to develop neighbourhood-level analysis. They see the need to reconstitute CPP relationships and ways of thinking about problems at a more local level instead of going in the other direction. That is more about engaging directly with local communities. Unfortunately, there seem to be some trade-offs, but that is how it is.

**John Mason:** I very much agree that we should push the power down. Will CPPs get there eventually if we just give them a bit more time—say, 20 years—or should we give them more powers or a bit more clout?

**Professor Gibb:** My reading of what Audit Scotland has been saying for a number of years is that progress is being made and there is improvement. It is perhaps uneven, but everybody is getting better at some things. Having more power in the CPP boardroom, as it were, to get things done sounds to me quite important as a way forward. I have not thought through exactly how that could be done and how it would work in practice, but that certainly seems to be the direction of travel.

**The Convener:** Following on from that, should CPPs be funded directly rather than through their constituent organisations, for prevention?

**Professor Mitchell:** The notion of top-slicing is certainly worth looking at. However, that would be hugely controversial. Everybody is quite willing to do this as long as somebody else does it.

**The Convener:** I did not mention top-slicing. I think that they would want the money in addition to the money for the normal delivery of services.

**Professor Mitchell:** That is what I am saying. That would involve slicing the money that the organisations would have been given anyway and taking part of it, and I do not think that you could do that. We must remember that the organisations have to deliver services, and we have to protect those services. Although we are focused on prevention, an awful lot of other things have to be done. The question is how we shift that.

Perhaps there is a case for taking an element from the budgets where that is possible. Let us be clear that some services have been cut much more harshly than others—local government has suffered much more than the national health service—and that is a real question. That takes us into the issue of whether we should ring fence national health service spending. It is a hugely difficult question, but we need to look at it. Perhaps we should take an element of that. Certainly, that is the view of people in local government, as you would expect.

We need to look at that. We would need to monitor the situation carefully to ensure that there was evidence that the bodies were making the effort to shift to prevention. I stress that we would need evidence that they were making the effort, because it would not always be obvious. It is difficult to prove that prevention has happened, and it can take time. That is one reason why there is reluctance to go down that route.

**Mark McDonald:** Your organisation or approach is called what works Scotland; I presume that you are also what does not work Scotland and that you have a role in highlighting not just good practice but the stuff that is not working. Do you consider that such a message will be as well received as saying, “Yes, this is great and we should do more of it”? Do you think that it will be as well received if you say, “This is wrong and you should stop doing it”?

**Professor Gibb:** We have found that there is a general enthusiasm and a desire for more evidence about the things that people are trying to make decisions about and the routes that they should go down. I think that people understand entirely the logic of what you have just said, because they do not want to go down the wrong road, as it were. We, in the what works Scotland team, are very interested in trying to differentiate between those two aspects and build up evidence in a sensible way because we want to prevent waste, which is partly what all this is about.

**Mark McDonald:** That is true. However, we are all human and local government, national Government and the national health service are all human organisations in which nobody likes to be told that the policy that they have developed either is not working or is, at worst, counterproductive. How do you have a conversation in which you say, “This is not helping the preventative agenda. You need to stop doing it”?

**Professor Mitchell:** Across the public services, there is a reluctance to admit mistakes because people can then come under fire. We need to create a safe space in which conversations can take place. It is strongly my view that we will learn a lot more from mistakes or from what does not work than from what does work. It is not always obvious what works—something might work without our knowing what is making it work—but we can often find out what is going wrong. The creation of a safe space is hugely important.

It is interesting to look at a policy or process as it has developed and reflect on that. We can learn a great deal through such reflection. I know of a number of examples of mistakes being made along the way but significant progress having been made because lessons were learned. It is much easier to learn from such examples. I can think of examples of situations that people are engaged

with at the moment, in which they are very much doing the kind of learning that says, “We started there. How did we get here? Where did we go wrong?” I am interested in seeing how we can learn from that process and what lessons can be learned for others. That is a hugely important part of what we, in the academic community, need to do.

**Mark McDonald:** I want to develop that point. I think that you were present for the earlier evidence session with Audit Scotland and the Accounts Commission, during which I spoke about the potential for the electoral cycle to hold some of the progress hostage because those involved in the cycle are constantly looking for gratification within a defined timescale as opposed to looking to the longer term. In that context, saying to somebody, “You’ll not see the benefits of this for five to 10 years” does not sell as well on the doorstep as saying, “Look at what we’ve delivered over the past four or five years.”

Given that approach, do you think that, when mistakes have been identified or progress has not been as fast as might have been anticipated, things that could have been very good have been cancelled or thrown out because they were not making progress quickly enough? Has the risk of that been borne out by past evidence?

**Professor Mitchell:** That is a risk. I preface my remark on the electoral cycle by saying that I am very much in favour of democracy, but I think that elections create some difficulties. We need to broaden out the discussion to take in the public engagement issue, which was discussed in the previous evidence session and is very important—elections are only one part of the process.

I know that, if I were in your shoes, Mr McDonald—frankly, I will never be in your shoes—and I were contesting an election, I would do as you will do when trying to score points off your opponents. That is natural. However, we must try to find space beyond that. We cannot wish away the electoral cycle, but we must try to find space and allow people the opportunity to learn lessons and explore how they could improve. A lot of that takes place. Fortunately, there is a degree of consensus that we can work with. I am very much in favour of building on the consensus and learning critically in order to move forward.

**Professor Gibb:** In the previous evidence session, we heard about the problem of getting multi-Parliament consensus on the retention of the same policy and how hard that is. There is a misalignment between the short-term search for quick wins and what we increasingly seem to be thinking of as the long time that it takes for a lot of the prevention measures to happen. The only way through that is to build political consensus around the issues.

The alternative is what happened in England a dozen years ago when the Labour Government, because it had a large majority, could pursue policies that it imagined would last for 10 years. For example, when it restructured rents and social housing it had a 10 to 12-year plan to do that. It could reasonably think that it could do that because of the timescale that it had in government. We do not have that luxury. As it turned out, the coalition Government unpicked the policies anyway. You need that much longer timescale; therefore, you need consensus to make policies work. You also need the evidence and the argument before you can get there.

**Mark McDonald:** Just as Professor Mitchell prefaced his remarks, I should probably say—before anyone writes a press release to the effect—that my question was not based on my wanting to see autocratic dictatorship.

I will wrap up my questioning with a final point. I asked earlier how the discussion can be led so that we get to a stage at which we can talk more about shifting the focus on to inputs versus outcomes, what and how we measure and the difficulty that members of a Government of any colour have in being the ones who are seen to lead the discussion. Do you see the evidence that you are producing as being a bedrock that could lead the discussion or allow the discussion to be led without its having a political tinge to it?

**Professor Mitchell:** Possibly, but there is ample evidence out there of the value of prevention. I throw the question back to you, because this is about leadership and that leadership cannot come just from central Government or local government. We need to test the approach to see whether there is consensus or agreement on it, and the test will be, for example, how this committee takes the matter forward.

It would be interesting to look at how members of the Scottish Parliament behave in the chamber and see what they speak about and ask questions about. What proportion of that is enforcement issues or targets? To what extent do they prioritise prevention in their speeches and statements? I have not done that, but I might go away and do it. I find myself saying that partly because I feel provoked into saying it.

We must all reflect on what we do in relation to the prevention agenda. A stated goal of this Parliament is that its committees should be consensual and should try to take things forward as the new politics is built, and I suggest that one of the challenges for you is to lead this work. You have already done a lot of work on the subject—as you said, you have been doing it for years—but can it be taken a stage further? Can the work be stepped up? I do not know.

I apologise for throwing the question back at you.

**Mark McDonald:** That is all right. I see the challenge that is being thrown down and I am sure that we will accept it.

**Malcolm Chisholm:** I think that there is a lot of rhetorical consensus around the topic, as there has been for some time. However, that does not amount to very much if it does not translate into policies.

I was interested in Professor Mitchell's point about giving local authorities more autonomy to make decisions. Perhaps community planning partnerships should be given that, too. Possibly that would mean easing off on some of the other targets. However, even in that framework, surely you would need to have clear national objectives—otherwise, who is to say that prevention would be on their agenda at all?

Given that the agenda is so massive, is there a case at a national level for focusing on a defined number of prevention and preventative objectives? There are so many of them—even your paper has many different examples of preventative spend—and some of them could be contradictory. If we take your health examples, we could focus on reducing coronary heart disease rates, but if we were to do that in a certain way, it might increase health inequalities. Do we need to say what our top-level preventative objectives for this Parliament are, so that we say what we are going to concentrate on—rather than trying to do everything—and then let local people work out how to do that?

11:15

**Professor Mitchell:** That is a really interesting question. It relates to the relationship between the national performance framework and the single outcome agreements. It is right to have broad outcomes at the national level, but there needs to be a local dimension because that which is most important will differ from area to area. I think that we need to allow some of the priorities to be set there.

We have not got that relationship between the national performance framework and the single outcome agreements quite right. In a sense, those two developments occurred separately and there is an attempt to articulate the two together. There is still work to be done there, and we need to look at that.

There is a danger of having too many priorities. That is where the national level is dangerous, because every local authority and local community will insist that it has a priority, and it will be right to do so. If that is added to the national priorities,

however, the list will become endless, and that would not be a good idea.

Broadly speaking, prevention is one of the priorities that we should have, but we need to permit those at the more local level to define the priorities and work out how they should be achieved.

**Malcolm Chisholm:** People commonly say that the difficulty is that it is all going to materialise so far into the future that politicians are not really interested. A lot of work has been done on the early years. The Finance Committee has not necessarily been very generous to the work that is described in the recent report, but I know that there has been a lot of activity around early years prevention and people accept that the results of that will come out many years down the line. On the other hand, we could argue that preventative activity on accident and emergency incidents could produce pretty quick results. Do we need to distinguish between what will inevitably take a long time and what will not?

**Professor Mitchell:** Absolutely. The international evidence on the early years is that we would get a reasonably quick hit. It would not be in months, but we would start to see some results within a few years.

It is interesting that we often assume that it will take years to see an impact, but if we look at the smoking ban, the impact of that was much faster in some areas than was anticipated. Impacts differ from measure to measure. We have to be careful and look at the longer term, but we can achieve a lot in the short term.

There is also a question about whether we are moving to prevention simply to save money or to improve life chances. I was a member of the Christie commission and we were very clear that we did not see a shift as just being about saving money. It was also, crucially, about improving life chances. I raise that because the tenor of some of this morning's discussion with Audit Scotland seemed to suggest that it is only about finance.

**Malcolm Chisholm:** I suppose that you are in the business of providing us with evidence. I know that there was some study in the case of the smoking ban, but do we sometimes have to do things in advance of getting the evidence? Is there a danger that, if we are always going to have evidence-based policy, we pick on the micro things and not on the macro things?

**Professor Gibb:** There is certainly a danger that, if we are overreliant on evidence on what is valuable, we might not do a lot of things that we would probably want to do. Pilots, pathfinders and things of that kind would seem to be sensible ways of building evidence before we make huge



commitments to programmes. That is an obvious thing to say.

**Professor Mitchell:** Evidence is important, but a theory of change is also important. We have to understand why we are doing something. I often give the example of Robert Owen. When he set up those schools in New Lanark, he did not have evidence, but he had a theory of change. He understood what was likely to happen, he went with it, and my goodness he was right.

We have to be careful, because evidence is often plural or contradictory, and sometimes it is just not there. We need a theory of change, an understanding of what we expect to happen and very good reasons for it. You are right to say that we should not always just hold back, because otherwise nothing would ever happen. That is why I gave the Robert Owen example.

**Gavin Brown:** I return to a question that Mark McDonald asked. He asked whether you are also what does not work Scotland, and you said that you are. Is it your plan as an organisation to publish in an unsweetened format case studies or examples of policies or areas that simply have not worked?

**Professor Mitchell:** I will tell you what I intend to do. What works Scotland is a very broad organisation and I will continue to do what I have always done, which is to be as constructively critical as possible. Constructive criticism works better than destructive criticism. I am certainly not in the business of pointing the finger and saying, "You got that wrong", partly because I would not want anyone to do it to me—because they would have a field day—but also because I do not think that it is at all helpful.

Any criticism would be constructive, but I also strongly take the view that we can learn from experimentation. We are still struggling with a lot of this. One of the key things is to learn from others, where appropriate, but without holding ourselves back if we have a theory of change, and to spread that as much as we can.

**Professor Gibb:** We have something called the evidence bank, which is part and parcel of what we are doing. It is a website that will include evidence reviews and rapid reviews that concern specific issues that come to us from our CPP partners and other partners who are involved in what works Scotland. That will provide objective and balanced reviews of specific issues and topics and ideas about trying to do things in a different way with regard to, for instance, how best to share information across various statutory partners that perhaps do not want to share information or have some institutional resistance to that. It will help us to determine how to learn from that.

We have four case-study CPP partners, but we are also working with a number of other CPPs with which we will share information. We want to try to understand better why some things do not work and how we can improve the situation. The more people are involved in that, the better. There will be a series of processes, some of which will be published on a website and some of which will be about CPPs working together, and they will reach the public domain in different ways.

**Professor Mitchell:** It is not my job to go out and look for someone who is not doing their job properly and audit them and so on. That is someone else's job. What I am interested in is why people behave in the way that they do and why they assume that they are behaving rationally. Are there structures or impediments that force people to behave in such a way that prevention is not at the forefront of what they are doing? Much of the discussion this morning has been around that. I am not saying that the fact that you guys are emphasising things other than prevention in your public statements and speeches is irrational. It might be quite rational. We have to understand that and then consider how we can move forward within what is, broadly, a rational-actor framework.

**Gavin Brown:** Professor Mitchell, you said that community planning partnerships should be encouraged or even forced to work collaboratively. With regard to getting the balance right, to what extent would you emphasise encouragement and to what extent would you emphasise force?

**Professor Mitchell:** That was one of those responses that just slipped out. There has to come a point at which encouragement does not work at the speed that we need it to. At that point, we will have to say, "Come on, we need some action," and use force to make it happen.

In a way, the threat already exists. People are well aware that that is likely to happen at some stage. One would like to think that that alone would make people behave rationally and change, but it might not. There must come a point at which we say, "This system is fine and good for certain purposes, but it's not advancing as far and as fast as we need it to, so we need to do something about that."

I do not like the word "force" and I wish that I had not used it. Let us just say that I think that we might have to intervene.

**The Convener:** That concludes questions from the committee. Do you have any final points that you would like to make?

**Professor Mitchell:** I think that I will go away and check up on how MSPs behave in the chamber. That is a really interesting issue. I stress that your role in this is hugely important. For many years, the committee has prioritised prevention

and put it on the agenda. My challenge, if I may say so, is to encourage you to take that a step further and see if you can go up a gear or two, because I think the political culture is an impediment.

**The Convener:** Thank you very much for your evidence today. I will suspend the meeting until 11.30 to enable members to have a natural break and allow a changeover of witnesses.

11:24

*Meeting suspended.*

11:30

*On resuming—*

## **Devolved Taxes Implementation**

**The Convener:** Item 2 is an evidence-taking session on the implementation of the devolved taxes with Eleanor Emberson, chief executive of Revenue Scotland; John King, Registers of Scotland; and John Kenny, Scottish Environment Protection Agency. I welcome our witnesses to the meeting.

Members have copies of the written update from Revenue Scotland, and we will move straight to questions. As the witnesses have been here many times before, they will know the drill: I will ask some questions first, and colleagues around the table will follow.

Although the update report is excellent and very comprehensive, I want to pick up on a number of issues. First of all, paragraph 13 states:

“I am confident that we will deliver the IT system, operational staffing and all the other elements that need to be in place for the collection and management of the two taxes for 1 April.”

Can you confirm that they are all now in place?

**Eleanor Emberson (Scottish Government):** All the elements of the information technology system are now developed. We are carrying on with the testing, which, as you know, we have been carrying out since way back in December; we have been involving external users since January, and we will be doing further testing with them next week. We are very confident that all of that is going very well, and no issues have come up that are causing me anxiety.

As for staffing, we now have all the staff, and I am quite confident that we have enough to go live. We have further recruitment in hand but, even if we get nobody else, I am quite happy that we have the staff that we need to go live on 1 April.

**The Convener:** That is excellent—I am very pleased to hear that.

In paragraph 16 of the update, you state:

“External user feedback during testing and since the portal opened has been overwhelmingly positive.”

Can you give me an example or two of some of the feedback that you have received?

**Eleanor Emberson:** As the committee might be aware, the convener of the Law Society of Scotland’s tax law sub-committee saw the system and commented that it was “intuitive” and easy to use. The overwhelming feedback is that the IT system is much simpler to use than the one for stamp duty land tax. Those who have been testing it have given us some suggestions for improving

the system slightly, which we have taken on board. Generally speaking, it has been going really well.

**The Convener:** I have indeed seen Isobel d'Inverno's comments about how user-friendly the system is now.

In paragraph 17 of the update, you say:

"the system will be opened for external users",

adding that this

"may reveal additional bugs or issues."

Has anything been identified in that regard?

**Eleanor Emberson:** Next week, we are going to do a further round of end-to-end testing of all aspects of the system, which will involve external users, and after that, we intend to open up the system to a wider group. So far the testing has revealed a number of small issues, and we have been able to tidy them up and make things clearer and slightly easier for users. I expect that we will continue to find things like that and trap one or two confusing error messages. The system is now at the level of refinement, and we will see what comes out when we open it up to a wider community, but we do not expect any significant problems.

**The Convener:** Good stuff.

I should say that I am not neglecting the two Johns—I just do not have any questions for them. Colleagues around the table might. We will proceed with you for the time being, Eleanor.

With regard to taxpayer contacts, you say in the update report:

"Up to 26 February, the support desk has been handling an average of 33 calls per day, with steady progress in sign-up numbers."

What is the capacity for call handling? Do you expect that to be an issue? Will it be okay? Do you have any indications as yet?

**Eleanor Emberson:** We have done our planning on volumes of calls, and we will be able to handle 250 to 300 calls a day if we have to; if that is the case, we can scale the staffing up. With colleagues, we have examined the level of calls that we could get. We expect to take higher numbers around the end of March and the beginning of April, and we will ensure that we have extra staff online who will be ready to answer calls if necessary. Since I wrote the update report, the level of calls has continued at a similar level.

**The Convener:** In paragraph 30 of the update, you mention

"The change to the costs of IT procurement and maintenance",

and state

"that VAT will not be recoverable".

Was there an understanding at one point that it would be recoverable? How much VAT is not being recovered?

**Eleanor Emberson:** There was no such understanding, but it was the original basis for costing. A lot of this goes back to the 2012 estimates and the figures that were worked out then, and other figures were developed later. As a result, we have been costing everything on a slightly—how shall I put it?—artificial basis. It was made clear all the way back in 2012 that we were costing on the basis of VAT being recoverable but it is quite clear to us that it will not be, as far as the IT system is concerned.

Having included VAT on the IT system, I must apologise to the committee, as the table of costs that I have sent you contains a slight inconsistency in the treatment of VAT. We have included VAT in the IT system costs and—I think—in some of the costs that we are paying to Registers of Scotland for set-up. However, we have not included it—or rather, we think that we have not included it consistently—for our colleagues in Registers of Scotland and SEPA. The impact of that would be, I think, a maximum of £24,000 out of the £21.2 million, so I hope that the information is not materially misleading, but I can write to the committee and correct the figures after the meeting.

**The Convener:** I just wanted to know what the figures are.

**Eleanor Emberson:** For the IT system, the figure is of the order of £200,000, but I can come back to you with the precise number.

**The Convener:** The figures that I have show that the IT costs have gone from £1.5 million to £2.266 million. Even if VAT were imposed on all of that, it would be one sixth. That would still mean an increase, but overall you seem to have come in at approximately £1.1 million below the £22.3 million figure that was mentioned. Obviously, that is a lot more than the £16.7 million that was initially hoped for. Why is there such a significant difference in the revised totals? For example, staff set-up costs are now £3.742 million compared with a budget of £1.8 million, which is a difference of 100 per cent.

**Eleanor Emberson:** There are a number of reasons for that difference. As I have attempted to explain in paragraph 31 of the update report, the comparison between the £16.7 million and the £22.3 million is becoming increasingly strained. As the committee is aware, those estimates were done in 2012 on a flat-cash basis—

**The Convener:** Without accounting for inflation et cetera.

**Eleanor Emberson:** Indeed. There was nothing to do with inflation. In addition, as the committee will be aware, there have been several changes in scope. The Scottish landfill tax and the land and buildings transaction tax are different from their UK equivalents, and there are costs associated with developing those taxes to meet the needs in Scotland. If one were to ask HM Revenue and Customs today to set up what we are actually setting up, it is far from clear what it would charge to do that. The original HMRC costing was based on relatively minimal changes to its IT systems and so on, because it was costing like for like on existing UK taxes. The changes in scope are significant.

As we discussed with the committee in November and December 2014, the set-up costs were higher than my earlier estimates, but we are no higher now. We are at £21.2 million, which is where we were in December. I am confident that that gives the committee a good handle on the costs for setting up those two taxes.

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

I will now open up the session to colleagues round the table. Gavin Brown will go first.

**Gavin Brown:** Good morning. I have a quick question about the project's overall status. The Revenue Scotland report refers to "Amber/Green". I think that that assessment comes from the November gateway review.

**Eleanor Emberson:** That is right.

**Gavin Brown:** However, the Registers of Scotland report refers to the project overall as being "green", or at least it states:

"The ... Tax Administration Programme Board is reporting a status of green".

Is the project as it stands today completely green, or is it still amber/green, with presumably a small number of elements at amber?

**Eleanor Emberson:** This week, we have five elements at amber out of around 600 individual deliverables. As we have highlighted before, we monitor the situation every week and, if anything turns amber or red, we take action to bring it back. Five elements are sitting at amber today, but that is on a slightly different basis of assessment; the gateway review report uses an assessment template with different categories. I have to say that I have never seen a programme of this level of complexity given a green gateway report a few months before going live. I am not saying that that never happens, but I have never seen it happen.

**Gavin Brown:** And the five amber elements that you have referred to compare with 17 amber elements last year.

**Eleanor Emberson:** Yes. The comparison is with the 17 amber elements.

**Gavin Brown:** So it is the same figure.

In relation to testing, after your previous appearance at the committee, you wrote:

"The formal release of the full system will take place once unit testing, involving external users, is completed.

We would expect that formal release to take place in late January or early February as I indicated to the committee."

Did that happen along those lines?

**Eleanor Emberson:** Yes. Everything has proceeded along the lines that I set out.

**Gavin Brown:** In your report, you refer to SETS, which I think is the acronym for the lawyers and stakeholders signing up to LBTT, landfill tax or both.

**Eleanor Emberson:** It is the name that has been chosen for our online tax collection system—the Scottish electronic tax system—simply because people like to have names for IT systems.

**Gavin Brown:** They must have names, of course. You have suggested that 483 users from 160 firms have signed up and that 52 are in the process of doing so. How many users need to sign up for the tax system as a whole to function, and how many lawyers are likely to use the system on the basis of your calculation that 90 per cent of applications will be submitted online? Is 483 pretty close to what you think is likely to be needed, or where are we?

**Eleanor Emberson:** Not yet. I will ask John King to comment, because our best understanding is based on Registers of Scotland figures.

**John King (Registers of Scotland):** Pretty much the same user base will have to sign up and register for the land and buildings transaction tax as has to sign up and register for various of our services. The solicitor community is quite small and concentrated. Five firms account for about 14 per cent of all our registration business, 100 firms for about 55 per cent and 600 firms for over 96 per cent. I expect that, between now and the end of March, the bulk of those 600 firms—and possibly some more—will have signed up and registered. As of today, 181 firms have registered. Based on our experience at Registers of Scotland, that is quite good progress with just under a month to go. A lot of firms will register closer to the event. By and large, that will be driven by when they start to get involved in a transaction that involves the land and buildings transaction tax. That will focus their minds. Indeed, it is how they traditionally operate: if they need to register, they will. I feel that we are in a positive place at the moment.

**Gavin Brown:** How long does it take to sign up? Does it take minutes, hours or days?

**Eleanor Emberson:** It depends on the route that is used. We have set up the system so that a firm that is already registered with Registers of Scotland's online system can use its Registers of Scotland credentials to pull all the data across. In that case, the arrangement takes minutes. However, if a firm is not in that position, it must request a user identification from us, and we have to post an authentication code out to it. It is all to do with system security. In that case, signing up will take a small number of days, because we need to use the mail and the firm then has to use its authentication code.

As John King has said, as of this morning 181 firms have registered, and well over half of the 690 users that that figure represents have signed up to the system using their ROS credentials. Nevertheless, a significant number of users are using the postal route. Both this week and next, we are putting out a lot of communications, through many different channels, to encourage people to sign up early and to make them realise that leaving it until 31 March might not be the best idea.

**Gavin Brown:** Sure, but is it correct that the longest that it takes to sign up is a matter of days and the shortest could be as little as a minute?

**Eleanor Emberson:** Yes, unless someone encounters a technical problem and phones the support desk and we have to talk them through any issues with their own systems and how they interact.

11:45

**Gavin Brown:** Okay, thank you.

I want to tie up a slight discrepancy about the contingency. In its report, Revenue Scotland says that it has formally decided that it does not need a contingency, whereas the Registers of Scotland report says:

"We will have a role to play in the event that system contingency has to be invoked."

It goes on to say:

"In the event that the on-line submission system cannot be deployed on 1 April we have developed, in tandem with Revenue Scotland, well developed, costed and resourced contingency plans."

The Registers of Scotland paper is dated 16 February, and the Revenue Scotland paper is dated 27 February. Is the discrepancy explained by the difference in the dates of the papers and due to a decision being made in the interim?

**Eleanor Emberson:** It is exactly that. We took the decision last week based on the position in the system.

**Gavin Brown:** Thank you.

When you gave evidence on the IT system in November, you said that the final stage was about security and that there would have to be full security testing and accreditation. Is that still on track? Has that been done or can it not be done until the last minute? Where are we with that?

**Eleanor Emberson:** It is substantially done. It had to be done before we could open our system for sign-up on 16 February. We went through the full security accreditation process, looked at the risk profile and accepted it. I had to sign an authority to operate. We went through all of that before 16 February. We will redo it before 1 April, but I do not expect the situation to have changed materially.

**Gavin Brown:** Okay.

Lastly, near the end of the report, you mention your intention to publish the tax yield on the website monthly. Will that be in real time, as it were, or will the monthly information relate to the situation several months before? How up to date will that monthly publication be?

**Eleanor Emberson:** I would expect to publish the April figures in May, for example. We are not yet at the stage where I can give you a date, but we will be working on that.

**Gavin Brown:** Sure. I just wanted to know whether the information will be three months behind or something like that. Do you think that it will be a month behind?

**Eleanor Emberson:** I am hoping that we will be able to get the data out the following month. I see no reason why not.

**Mark McDonald:** I do not want Mr Kenny to feel left out, so I will ask a couple of questions about SEPA's progress report.

Paragraph 4 of the SEPA update says:

"Revenue Scotland has requested that SEPA hold and manage Scottish Landfill Tax Intelligence on their behalf. SEPA and Revenue Scotland is looking at the operational and security requirements and costs of this."

When do you expect to arrive at a conclusion with regard to the examination of

"operational and security requirements and costs"?

**John Kenny (Scottish Environment Protection Agency):** We expect to do so this month. We have a meeting with the Scottish Information Commissioner's office next week to test some of the models that we have put in place. There are concerns around security and data management and ownership that we need to run

past the commissioner's office, but following detailed discussions we hope to be ready and have arrangements in place this month.

**Mark McDonald:** In paragraph 7, you talk about the recruitment process for compliance officers and specialists being under way.

**John Kenny:** Recruitment was undertaken last week and yesterday, and offers have been made to the successful candidates.

**Mark McDonald:** Okay. Do you expect every post to be filled?

**John Kenny:** We expect the people to be in post and ready for 1 April.

**Mark McDonald:** Paragraph 11 of the submission says that "setup costs were reviewed" from £620,000 to £380,000, which is quite a shift. What was that driven by?

**John Kenny:** That was due to the change in the IT system, as a result of which we moved from the understanding that SEPA would receive tax payments directly. When we changed the IT model last year, we reduced our IT costs from £350,000 to £100,000.

**Mark McDonald:** With regard to SEPA's responsibilities in relation to the Scottish landfill communities fund, have you had discussions with Entrust, which is the body that administers funds at a UK level? Has there been input from the bodies in Scotland that receive and distribute funds from Entrust about the systems that you are putting in place? Obviously, if there is no need to reinvent the wheel, it seems sensible not to do so.

**John Kenny:** We have indeed had those discussions and that input. SEPA is in direct contact with Entrust, and Entrust's chief executive and, indeed, representatives of the Scottish landfill communities fund forum sit on the project board that Revenue Scotland runs on the programme. They very much have an input to the proposals, systems and guidance that we are proposing.

**Mark McDonald:** You say that you expect all of the systems to be in place on 1 April, but some of the bodies that get this funding exist very much hand to mouth and would want to be assured that landfill communities fund moneys will continue to flow.

**John Kenny:** They will be able to apply to SEPA for approval from 1 April. We are confident that SEPA will be able to deal with those applications. The reality is that we do not foresee the money coming in until the end of the first quarter, when the first landfill tax submissions are due.

**Mark McDonald:** Are the bodies that you have been in consultation with aware of and comfortable with that fact?

**John Kenny:** Yes, and we will be ready to register them and accept their applications from 1 April.

**The Convener:** Thank you. That concludes questions from the committee. Do the witnesses wish to make any other points?

**Eleanor Emberson:** No.

**The Convener:** Thank you for answering our questions. I suspend the meeting for two minutes for a changeover of witnesses.

11:51

*Meeting suspended.*

11:57

*On resuming—*

## Subordinate Legislation

### Scottish Landfill Tax (Qualifying Material) Order 2015 (SSI 2015/45)

#### Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2015 [Draft]

**The Convener:** Item 3 is evidence from the Cabinet Secretary for Finance, Constitution and Economy on two Scottish statutory instruments relating to Scottish landfill tax. The cabinet secretary is joined by Colin Miller, David Kerrouchi and John St Clair from the Scottish Government. I invite the cabinet secretary to make an opening statement to explain the instruments; I remind him not to move the motions at this point.

**The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney):** The Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2015 specifies the first standard rate and lower rate for the Scottish landfill tax. The rates will be set to ensure parity with UK landfill tax rates for 2015-16. In setting these rates, I am acting to avoid any potential for waste tourism brought about by material differences between the tax rates north and south of the border.

As I outlined to the committee last week, I have designed devolved tax rates to be revenue neutral in aggregate against the block grant adjustment. The Scottish Government forecasts that we will generate revenue of £117 million from Scottish landfill tax in 2015-16, net of contributions to the landfill communities fund. That full-year forecast has been endorsed as reasonable by the independent Scottish Fiscal Commission.

The Scottish Landfill Tax (Qualifying Material) Order 2015 sets out material that qualifies for tax at the lower rate and the qualifying conditions that have to be met. The lower rate of tax recognises that there is a relatively low level of environmental impact associated with the landfilling of wastes that are less active or less polluting in the environment. Those waste materials are inert; they do not biodegrade, they do not produce landfill gas and they present a low risk of pollution to groundwater and surface water. Landfill sites handling the material can be subject to a much shorter period of aftercare and returned more readily to other productive uses.

The list of qualifying materials in the order largely replicates the equivalent UK provisions that are currently in place. However, it is my intention to engage further with the waste processing

industry in the course of the next year to review the position as Scottish landfill tax becomes more established. In particular, consideration will be given to the possibility of bringing forward legislation that sets out requirements for loss-on-ignition testing for trommel fines from April 2016. The aim of that would be to provide greater certainty to the waste industry regarding the tax treatment of residual waste from mechanised screening processes, referred to as trommel fines. The proposition is that measuring the proportion of material in the waste that is combustible, and therefore active, gives a much more reliable and fairer way of determining what tax is due.

12:00

**John Mason:** You said that you are matching the UK landfill tax rates for 2015-16. Are you 100 per cent certain that the UK rates cannot change?

**John Swinney:** I suppose that they could change at the budget in March.

**John Mason:** We have had a problem with this issue before when you have given proper notice after consulting on what the rates would be for other taxes. In this case, you are obviously trying to match the UK tax rates. However, I would be concerned if the UK changed its rates in the meantime, because that would create all the problems that you are trying to avoid.

**John Swinney:** It remains a possibility. The likelihood is low, given that the UK policy approach that underpins landfill tax will be similar to ours, in the sense that it is about creating the incentive to avoid landfill. I would be surprised if the UK decided to move to a lower rate, for example, because that would run against the thrust and direction of the policy position. The UK could of course move to a higher rate, which might create the conditions whereby there might be an incentive in the north of England to transport waste to Scotland under waste tourism, but I think that the probability of that is very low.

**John Mason:** Thank you.

**Malcolm Chisholm:** You have set rates to be revenue neutral against the one-year adjustment to the block grant, with the landfill tax revenue estimated at £117 million, and you have set the rates at the same level as the UK rates. Is the assumption about how much waste there is notional, based on how much material is required for the revenue from that rate to reach £117 million, or is there any separate estimate? It just seems to be a bit of a coincidence that it is all working out. Is there a separate estimate of the amount of waste, or is it just a derivative of the other two figures?

**John Swinney:** I have settled the question of revenue neutrality across all the devolved taxes that are coming to us—that is between land and buildings transaction tax, made up of residential and non-residential transactions, and landfill tax. My point on revenue neutrality is at the level of £494 million, as set by the block grant adjustment.

Our estimate of how much we think will be raised by landfill tax in Scotland is £117 million. The Office for Budget Responsibility's estimate is £103 million. We have constructed our assessment based on the use of the rates that I have set out—the same rates as the UK—but we have also taken into account our estimate of what we believe the volume of landfill tax and the incidence of landfill tax payments made by operators will be and we have come to a different conclusion from the OBR. We built a distinctive Scottish model based on our information from SEPA. I assume that the OBR estimate is a subset of the wider UK position. I am confident in our estimate, but the whole question of the impact on the budget will be felt across the three components of the position—between landfill tax, and residential and non-residential transactions.

**Malcolm Chisholm:** In your negotiations on the block grant adjustment, did the UK Government assume a £103 million impact?

**John Swinney:** The UK's position overall was that between stamp duty land tax and landfill tax, we would raise £524 million in total; we believed that the existing taxes would raise £461 million in total. That was the source of the difference between the two estimates. We reconciled that at £494 million. As I have explained to Parliament before, because I was not changing my assumptions on landfill tax on non-residential transactions, I viewed them as fixed estimates within the £494 million because they had not been changed by the UK Government, and then I decided how I was going to raise the £235 million that was required under residential LBTT to fill the gap.

**Malcolm Chisholm:** It just seems a bit odd that the UK Government thinks in general that you will raise far more than your assumptions, but the opposite is the case on the landfill tax. It thinks that you will raise less than that.

**John Swinney:** That is a point of difference that illustrates that we arrive at the estimates by different mechanisms and methods. It is not as if—heaven forbid—I might be accused of suggesting that we will in all circumstances raise less in taxation to get a lower block grant adjustment. I am just trying to go through things in as objective and neutral a fashion as I possibly can.

**The Convener:** I thank Malcolm Chisholm for that. I will not comment on the cabinet secretary's facial expression.

I seem to recall that, when we went through LBTT at stage 1, the Scottish Government considered all the estimates that the OBR had put forward to be higher than your estimates, whereas they now seem to be lower. Because of the zero-waste strategy, we are talking about getting down to £40 million to £50 million over four or five years. Members—Malcolm Chisholm and I were two of them—expressed concern that the OBR was overestimating the amount of revenue that would come in in that particular area.

**John Swinney:** If my memory serves me right—I think that I am correct in saying this—one of the points that I made to the committee during the passage of the landfill tax when the legislative process started, probably back in 2012, was that the OBR had estimated a number that was not far away from £150 million. In the space of around 18 months, it revised that number down by around a third.

The convener is absolutely correct. The OBR estimates started out significantly higher. Indeed, I was concerned that the estimates were well adrift of where we considered the position to be. We now find ourselves with an OBR estimate of around £103 million.

**Gavin Brown:** I have a question on the Scottish Landfill Tax (Qualifying Material) Order 2015. The policy note says that the Scottish landfill tax

"list of qualifying material largely replicates the equivalent UK order."

Does it exactly mirror the UK order or largely replicate it, as you have suggested? If it is the latter, are there any significant differences?

**John Swinney:** The principal difference is that a slightly different approach will be taken on the testing regime that has to be in place for assessing whether the final waste product, once all the processes have been undertaken, should be treated at the higher rate or the lower rate. We have injected some flexibility into that element simply because we do not believe that the testing equipment is available on as comprehensive a basis as it would need to be for us to make that hard and fast as a rule. There is an element of discretion. Obviously, the assumption would be that, unless it can be proven that the waste should be treated at the lower rate, it would be charged at the higher rate, but to be absolutely confident that we had the ability to mandate that point, we believe that the testing regime would have to be stronger than it is. I would expect to be into that in year 2. I think that that is the principal difference.



**David Kerrouchi (Scottish Government):** That is correct. It is hard to legislate and not make it mandatory in the first year. The aim is to allow industry time to procure equipment and put contracts in place for the testing regime in year 2.

**The Convener:** As that is the end of our questions, we move to item 4, which is consideration of motions S4M-12437 and S4M-12438.

*Motions moved,*

That the Finance Committee recommends that the Scottish Landfill Tax (Qualifying Material) Order 2015 (SSI 2015/45) be approved.

That the Finance Committee recommends that the Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2015 [draft] be approved.—[*John Swinney.*]

*Motions agreed to.*

**Proceeds of Crime Act 2002 (Disclosure of Information to and by Lord Advocate and Scottish Ministers) Amendment Order 2015 [Draft]**

**Revenue Scotland and Tax Powers Act (Reimbursement Arrangements) Regulations 2015 [Draft]**

**Revenue Scotland and Tax Powers Act (Record Keeping) Regulations 2015 [Draft]**

**Revenue Scotland and Tax Powers Act (Interest on Unpaid Tax and Interest Rates in General) Regulations 2015 [Draft]**

**Scottish Tax Tribunals (Voting and Offences etc) Regulations 2015 [Draft]**

**Revenue Scotland and Tax Powers Act (Postponement of Tax Pending a Review or Appeal) Regulations 2015 [Draft]**

**The Convener:** Item 5 is evidence from the Cabinet Secretary for Finance, Constitution and Economy on six Scottish statutory instruments relating to the Revenue Scotland and Tax Powers Act 2014. I invite the cabinet secretary to make an opening statement explaining the instruments. I remind him not to move the motions at this point.

**John Swinney:** I would like to set out some details on the six affirmative SSIs under the Revenue Scotland and Tax Powers Act 2014. All of them were published in draft last October for consultation and have been revised in the light of responses to the consultation.

The Revenue Scotland and Tax Powers Act (Postponement of Tax Pending a Review or Appeal) Regulations 2015 allow Revenue

Scotland to consider applications for the postponement of payment of land and buildings transaction tax pending review or appeal, but only if Revenue Scotland is satisfied that there are exceptional circumstances that justify doing so. There is no such discretion in relation to landfill tax, because the landfill operator will already have collected the relevant tax from the person who has made a deposit and must pay the tax that is due pending an appeal.

The Scottish Tax Tribunals (Voting and Offences etc) Regulations 2015 provide for majority voting by members of the first-tier and upper tribunal and for the chairing member to have the casting vote in the event of a tie. The regulations also create various criminal offences relating to proceedings before a tribunal, such as making a false statement or destroying material that is required to be produced, but it is a defence if a person can show reasonable cause for acting in the way charged.

The Revenue Scotland and Tax Powers Act (Interest on Unpaid Tax and Interest Rates in General) Regulations 2015 provide that interest will be charged by Revenue Scotland on late payments of tax or penalties at 2.5 per cent above base rate, and that Revenue Scotland will pay interest on repayments to the taxpayer at base rate. The reason for the higher rate in relation to late payments is to provide an incentive for prompt payment of tax that is due, but we have decided to narrow the differential from 3.5 to 2.5 per cent, in the light of responses to the consultation.

The Revenue Scotland and Tax Powers Act (Record Keeping) Regulations 2015 specify exactly what records must be preserved for the purposes of landfill tax and land and buildings transaction tax respectively.

The Revenue Scotland and Tax Powers Act (Reimbursement Arrangements) Regulations 2015 are designed to ensure that a taxpayer who is reimbursed by Revenue Scotland is not unjustly enriched. For example, the regulations require a taxpayer who is being reimbursed by Revenue Scotland to pass on the relevant amount to the person who paid the original amount. That would be expected to apply to landfill operators who have already collected landfill tax from persons who make deposits at landfill sites where tax is subsequently reimbursed to the operator for some reason. The regulations would oblige the operator to repay tax to the person who made the taxable deposit in the first place.

Finally, the Proceeds of Crime Act 2002 (Disclosure of Information to and by Lord Advocate and Scottish Ministers) Amendment Order 2015 permits the disclosure of information by Revenue Scotland to the Lord Advocate for the purposes of proceedings relating to the

confiscation of the proceeds of crime and to the Scottish ministers in relation to civil recovery of the proceeds of unlawful conduct.

**The Convener:** As members have no questions, we move to agenda item 6, which is consideration of motions S4M-12464, S4M-12465, S4M-12466, S4M-12467, S4M-12468 and S4M-12469.

*Motions moved,*

That the Finance Committee recommends that the Proceeds of Crime Act 2002 (Disclosure of Information to and by Lord Advocate and Scottish Ministers) Amendment Order 2015 [draft] be approved.

That the Finance Committee recommends that the Revenue Scotland and Tax Powers Act (Reimbursement Arrangements) Regulations 2015 [draft] be approved.

That the Finance Committee recommends that the Revenue Scotland and Tax Powers Act (Record Keeping) Regulations 2015 [draft] be approved.

That the Finance Committee recommends that the Revenue Scotland and Tax Powers Act (Interest on Unpaid Tax and Interest Rates in General) Regulations 2015 [draft] be approved.

That the Finance Committee recommends that the Scottish Tax Tribunals (Voting and Offences etc.) Regulations 2015 [draft] be approved.

That the Finance Committee recommends that the Revenue Scotland and Tax Powers Act (Postponement of Tax Pending a Review or Appeal) Regulations 2015 [draft] be approved.—[John Swinney.]

*Motions agreed to.*

**The Convener:** I thank the cabinet secretary. We will have a one-minute suspension before we move to item 7.

12:14

*Meeting suspended.*

12:15

*On resuming—*

### **Revenue Scotland (First Planning Period) Order 2015 (SSI 2015/16)**

### **Revenue Scotland and Tax Powers Act (Fees for Payment) Regulations 2015 (SSI 2015/36)**

### **Revenue Scotland and Tax Powers Act (Involved Third Party) Order 2015 (SSI 2015/37)**

### **Revenue Scotland and Tax Powers Act (Privileged Communications) Regulations 2015 (SSI 2015/38)**

### **Land and Buildings Transaction Tax (Transitional Provisions) (Scotland) Amendment Order 2015 (SSI 2015/71)**

**The Convener:** The final item is consideration of five negative SSIs. I see that members have no comments on the instruments.

The committee will publish a short report to the Parliament setting out our decision on all the instruments that we have considered today.

I thank members for their contributions.

*Meeting closed at 12:15.*

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

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