



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Finance and Public Administration Committee

Tuesday 5 March 2024

Session 6



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**FINANCE AND PUBLIC ADMINISTRATION COMMITTEE**

**9<sup>th</sup> Meeting 2024, Session 6**

**CONVENER**

\*Kenneth Gibson (Cunninghame North) (SNP)

**DEPUTY CONVENER**

\*Michael Marra (North East Scotland) (Lab)

**COMMITTEE MEMBERS**

Ross Greer (West Scotland) (Green)

\*Jamie Halcro Johnston (Highlands and Islands) (Con)

\*John Mason (Glasgow Shettleston) (SNP)

\*Liz Smith (Mid Scotland and Fife) (Con)

\*Michelle Thomson (Falkirk East) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Tom Arthur (Minister for Community Wealth and Public Finance)

Alan Doak (Mineral Products Association Scotland)

Scott Mackay (Scottish Government)

Gillian Mackay (Central Scotland) (Green) (Committee Substitute)

Craig Maidment (Scottish Government)

Dougie Neill (Scottish Environmental Services Association)

Jonathan Sharma (Convention of Scottish Local Authorities)

Robert Souter (Scottish Government)

**CLERK TO THE COMMITTEE**

Joanne McNaughton

**LOCATION**

The Robert Burns Room (CR1)



## Scottish Parliament

### Finance and Public Administration Committee

Tuesday 5 March 2024

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

09:50

*Meeting continued in public.*

### Interests

**The Convener (Kenneth Gibson):** Good morning and welcome to the ninth meeting in 2024 of the Finance and Public Administration Committee. We are joined today by Gillian Mackay, who is attending the meeting as a committee substitute in the absence of Ross Greer, who is at another committee. I invite Gillian to declare any relevant interests.

**Gillian Mackay (Central Scotland) (Green):** I have no relevant interests to declare.

**The Convener:** Thank you.

## Subordinate Legislation

### Budget (Scotland) Act 2023 Amendment Regulations 2024 [Draft]

09:50

**The Convener:** The next item on our agenda today is an evidence session with the Minister for Community Wealth and Public Finance on the draft Budget (Scotland) Act 2023 Amendment Regulations 2024. Mr Arthur is joined today by two Scottish Government officials: Scott Mackay, head of finance co-ordination, and Craig Maidment, senior finance manager. I welcome our witnesses to the meeting, and I invite the minister to make a short opening statement.

**The Minister for Community Wealth and Public Finance (Tom Arthur):** As the committee will be aware, we continue to face challenging economic circumstances. Continued inflationary pressures, particularly around public sector pay, have put real pressure on the Scottish budget over the course of the financial year. Despite some improvement in the overall funding position since the autumn budget revision, managing the impact of pay deals within the overall position has been challenging. Reprioritisation of budgets has been necessary due to continued inflationary pressures, including on public sector pay, and to support priority areas, including the on-going funding for Ukrainian displaced people.

In her letter to the committee from November, ahead of the United Kingdom autumn fiscal event, the Deputy First Minister set out the tough choices that the Scottish Government has been required to make to ensure that we can achieve a balanced budget. The spring budget revision shows the outcome of those tough choices being actioned.

The spring budget revision provides the final opportunity to formally amend the Scottish budget for 2023-24 and contains the usual four categories of changes. The net funding changes increase the budget by £546.8 million. These changes include: providing £750.8 million to health to support services, fund pay rises and provide support as it continues to recover from the Covid-19 pandemic; £134 million to police and fire pensions; £51.8 million net to social security benefit expenditure; and £41.2 million to the Ukrainian resettlement scheme. To help fund these priority areas, it has been necessary to reprioritise budgets in the way in which the Deputy First Minister outlined. The technical, Whitehall and internal transfers are presented in the document in the usual way.

There are some extremely large technical adjustments included within the spring budget revision. These include a £3.1 billion decrease in

the annually managed expenditure budget requirement for national health service and teachers' pensions, and a £735 million increase in the non-cash budget cover required for student loans. From our previous discussions, I know that the committee is aware that those changes do not impact the Scottish Government's discretionary spending power. The adjustments reflect latest estimates and are used to set the final budgets that outturn is reported against in the annual accounts. They are required to limit material differences being reported against the budget totals and accounts and try to avoid the confusion around underspends that emerged in previous discussions in Parliament.

The supporting document to the spring budget revision and the finance update prepared by my officials provide further background on the net changes, as well as updates on information requested by the committee.

**The Convener:** Thank you very much. In time-honoured fashion, we will go through some of the changes to try to get further information and elaboration on how decisions have been made and what the impact will be. I start off with NHS recovery and the health and social care portfolio. The additional funding includes £514 million of resource and £235 million of capital. The budget is a wee bit coy about what that will be spent or invested in. Could you give us a bit more information?

**Tom Arthur:** As I touched on in my opening remarks, no part of the public sector has been immune to the significant pressures arising from inflation, the general cost of living crisis and the conditions that have been impacting every aspect of society. The additional funding for health is to support the in-year position—within this financial year—and to support our health services to address those pressures. For example, it includes elements around public sector pay, as I touched on in my earlier remarks.

**The Convener:** Indeed, but the £235 million of capital funding interests me because, as we know, there has been a two-year moratorium on new capital projects in the NHS, although, of course, there is still money being spent on care and maintenance. What does the £235 million represent as a share of capital allocated to the NHS and what is it being invested in?

**Tom Arthur:** As you would imagine, it will be invested in a range of areas of capital expenditure. As I touched on a moment ago—and I think is more broadly reflected across the autumn budget revision—we are operating in an environment where capital budgets are under significant pressure. Of course, the position that we are moving into in the next financial year is compounded by the reduction in the capital that

we will receive from the UK Government over the medium term. Craig Maidment or Scott Mackay, do you have the figures on the capital position in relation to the overall NHS capital allocation at hand?

**Craig Maidment (Scottish Government):** I do not have that exact figure to hand. I would have to follow up on that.

**Tom Arthur:** The question was about what the £235 million represents as a share of the overall capital allocation towards health.

**The Convener:** Sorry to interrupt, minister but if you think about it, the total capital budgeted spend will be £5.845 billion and £235 million in one particular portfolio is quite a significant slice of that. That is why I was quite intrigued as to what that money will be spent on.

**Tom Arthur:** As I touched on, it will cover a range of capital expenditure across the health portfolio. I recognise the interest in the capital position going forward, but that money is to support the in-year position, recognising the range of pressures that the health portfolio is facing. All I can say is it broadly supports capital expenditure across the health portfolio.

**The Convener:** It would be good to get further detail on that.

The other point is that there is £108.9 million capital spend that has been unallocated. Given the pressures that you have talked about, one would have thought that you would have tried to allocate all of it.

**Tom Arthur:** On unallocated funds, that ultimately arises from the fact that we do not have certainty on what our final position will be this year. There can be material movements up to the end and, indeed, beyond the end of the financial year. That is just a reflection of the inherent uncertainty in how our fiscal framework operates. Do you want to come in, Scott Mackay?

**Scott Mackay (Scottish Government):** I was just going to say that we got some surprises in the supplementary estimate in relation to additional funding: based on our discussions with the Treasury, we had been modelling on the basis of negative consequentials, but instead we got additional capital funding. In the run up to the spring budget revision, we were anticipating less funding than actually materialised. That is a key contributing factor to us having that position.

You will be well aware of the pressures in 2024-25. As the minister says, we are still finalising the position for this year, but should things come in on forecast then we would have some additional capital carry forward through the reserve, subject to that final position.

**The Convener:** Will that be fully allocated in 2024-25, or will we end up a year from now in another situation in which £100-odd million is unallocated?

10:00

**Tom Arthur:** As Scott Mackay touched on—and if memory serves me correct, he has referenced this in the guide that we provided to the committee—in the scenario where, through the way in which the UK cycle of fiscal events operates, supplementary estimates are only being confirmed at the end of February, scenarios and situations can arise where we receive funding that has not been anticipated, so we have to manage that funding now. We still have to complete this financial year but any funding that is not allocated and spent within this year would be carried forward to support the position in 2024-25. Broadly speaking, we have consistently been able to ensure that any discretionary funding that we receive is spent in-year, and if it is not spent in-year it is carried forward. We have not lost any discretionary spend as a consequence of late consequentials. That speaks to the important role that the Scotland reserve plays in allowing that flexibility.

**The Convener:** Thank you for that clarification. One of the issues that we have discussed at this committee is the long-term financial sustainability of the public finances. We see that there is a £284.2 million increase for social security on a budget that is already growing very dramatically. Can you talk us through that and why there is such a huge differential between what was anticipated and what is now having to be spent? It seems a huge difference.

**Tom Arthur:** Of course. The net position, when looked at it in the round, is less than that. We are cognisant of the need for long-term sustainability, so we monitor the position on social security spend very carefully. I am conscious that we have provided some more up-to-date information, which we brought to bear in our understanding of the current position. Is that something that you are able to comment on, Scott Mackay?

**Scott Mackay:** It is based on updated forecasts from the Scottish Fiscal Commission and subsequent information from the social security policy team on demand. These are demand-led budgets. We establish the policy position and the qualification criteria and there is a limit to the extent to which we can actively manage those budgets within those criteria. It is demand led and we need to manage the movements in-year.

We have some flexibilities within the fiscal framework—there is some borrowing capability that is linked to helping us to smooth the

management of volatility so we can borrow against forecast changes. One of the challenges of managing a budget of that scale when it is demand led is the level of volatility that we see.

**The Convener:** Yes, it is demand led, but there must have been a pretty good idea of what it would be, given the fact that it is not something that has been started from scratch. There is a baseline from the Department for Work and Pensions. There might be people on the fringes who may not qualify under some of the DWP regulations but will qualify for some of the new benefits that the Scottish Government has introduced. It just seems that there was quite a significant underestimation of what was required.

**Scott Mackay:** Obviously, it is a big number, but relatively small percentage differences can amount to big figures. The social security team are developing their modelling continually, but we do see volatility. Managing £6 billion-worth of social security expenditure that is demand led within the narrow limits of the flexibilities that we have is a continual challenge.

**The Convener:** The education and skills portfolio is receiving an additional £54.1 million. The largest element of that is the £29.8 million being provided to the Scottish Qualifications Authority to “support its ongoing activities”. What are these on-going activities that were not previously anticipated?

**Tom Arthur:** That reflects pay awards, appointee costs following the introduction of curriculum for excellence, to ensure alignment with the real living wage, inflation and other operational costs as well—it is for pay awards, inflation and various other operational costs.

**The Convener:** Would it not be better just to say that, rather than saying it is for “ongoing activities”, which is a bit vague. The point of this is to try to ascertain where the money is going—either up or down. If we are just given that information, it would make life a lot easier than just referring to some “ongoing activities”. You are bound to get a question on something like that because it is so vague, and we are talking nearly £30 million.

**Tom Arthur:** I appreciate that position, convener. It is something that we will take away to consider.

**The Convener:** Could you talk me through the transport, net zero and just transition portfolio budget? On the one hand, we have been told that it is receiving additional funding of £81.6 million, the vast majority of which is to be provided as additional borrowing capacity for Scottish Water, while on the other, the actual overall Scottish Government portfolio figures show a reduction from £4,307.8 million to £4,068.7 million, which is

a decrease of £240 million or 5 per cent. Those figures do not seem to add up.

**Tom Arthur:** Certainly. There are areas where it has not been possible to deliver the spend in-year. That is the case in the building programme, for example. There are other elements where work is still on-going in business cases, for example, which has meant that money could not be spent in-year. I will ask Scott Mackay to come in on the specific point on the Scottish Water borrowing.

**The Convener:** Justice and home affairs has had funding reductions of £65.5 million. Of that, £41 million relates to capital funding for the HMP Highland and HMP Glasgow projects that should be reprofiled into future years. When you say “reprofiled”, do you just mean delayed? Why do you not just put delayed?

**Tom Arthur:** That just reflects the challenges within the construction sector on these particular capital projects. These are macro factors that are not within our control. We have to be able to respond to the economic environment we are in.

You asked a specific question around Scottish Water, convener, and I will ask Scott Mackay to come in on that.

**Scott Mackay:** We are trying to show the gross funding movements. That is why we are showing increases and decreases rather than the net position. On Scottish Water specifically, there is a five-year regulatory period. We engage with Scottish Water on its capital requirements over that regulatory period and the borrowing necessary to support that. That is then profiled and, where capacity allows, we can adjust that profile in response to the needs of Scottish Water. It is part of a planned investment programme. There are movements within that across the regulatory periods.

**The Convener:** Okay. I will not go through all of the technical adjustments but I will focus on one. Additional budget cover of £48.1 million has been provided for private finance initiative projects in NHS recovery, health and social care. It says here:

“This technical change falls outside of UK Budget limits and is provided to align the Scottish Budget with accounting requirements.”

What does that mean? What accounting requirements are we talking about here?

**Tom Arthur:** Again, it is not something that impacts upon discretionary spend but is a technical aspect. I will ask Scott Mackay to comment.

**Scott Mackay:** There is a difference in the way that some public-private partnership projects are budgeted and accounted for, which means that

they are off the balance sheet in terms of budgeting. In budgetary terms, we score only the unitary payments, but in accounting terms we recognise the full value of the underlying asset in the accounts. This budget adjustment reflects movements in those accounting values. That needs to be shown so that we have a budgetary aggregate that reflects what we will show in the accounts in Scottish budgetary terms, but it does not impact on those Treasury budgets. It is indicative of that difference between the budgeting for these off-balance-sheet private finance initiative projects and the accounting for them. Is that helpful?

**The Convener:** That is certainly helpful for Michelle Thomson, who has been nodding away. Thank you.

One of the important aspects of the budget is the Verity house agreement and the interaction there. As part of the budget document, £1 billion of ring-fenced funding that was previously held in portfolios was baselined into the local government settlement. That has been welcomed in local government. We have a breakdown of all that information here. How much remains ring fenced?

**Tom Arthur:** We have set out the elements that are ring fenced. We have a commitment, through the Verity house agreement, to establishing a fiscal framework for local government. That is work that we are committed to seeing through and are working at pace to deliver. Where we are in the process of setting a baseline for 2024-25 represents a point on a journey. I know that there is interest in Parliament, in the committee and, certainly, in local government in continuing discussions about what further progress we can make.

**The Convener:** Where do you anticipate that going?

**Tom Arthur:** I do not want to pre-empt the outcome of the discussions. Clearly, they cover a range of portfolio and ministerial interests.

**The Convener:** Is the direction of travel that you will reduce ring fencing further?

**Tom Arthur:** That is what we hope we have achieved so far. I know that there is a strong interest in local government in exploring how we can go further. As part of the Verity house process and the commitment to a fiscal framework, we are committed to that engagement and to having those discussions.

**The Convener:** In terms of supplementary estimates—Scott Mackay touched on them earlier—additional funding is classed as being expected from the UK Government, but it is not clear why the estimates are included if they are merely expected as opposed to confirmed. I know



that there is a lot of exasperation in the Scottish Government when the UK Government hints that money is coming in but it might or might not come. When do you decide to include or not include figures in the estimates?

**Tom Arthur:** We provide some commentary on that in the guide that we have provided to the committee. There is informal information that can be shared at official level and there is engagement between the Deputy First Minister and Cabinet Secretary for Finance and the Chief Secretary to the Treasury through the finance interministerial standing committee. There are such opportunities but, as was touched on earlier, uncertainty is inherent in the process, in that our earlier assumptions around capital and negative consequential have not, ultimately, prevailed.

Ultimately, that reflects the way in which the wider UK fiscal framework operates. In respect of supplementary estimates, we find out what our final allocations from the UK Government will be very late in the financial year. We seek to provide as much information as possible to ensure that the budget, as amended for the financial year, reflects the position as we understand it. Of course, the position is not finalised until the end of the financial year—or even beyond it. That is challenging, so we seek to strike a balance. I acknowledge that, within that, judgments have to be made, but the situation is, ultimately, just reflective of how the UK fiscal framework operates. Scott might want to add to that.

**Scott Mackay:** There is a persistent timing issue: supplementary estimates have been finalised pretty late in recent years. We need to complete the spring budget revision and we have a lead-in time for that that we need to hit, we need to reflect funding changes within the document and we need the figures in order to balance the budget position. We engage regularly with Treasury officials and we get an indication of the likely position, which we have incorporated in the document. As you can see from the subsequent information, figures have varied quite significantly from the indicative figures, particularly on resource.

10:15

**The Convener:** Thanks very much. Before we move on, I want to thank you for providing detail on the reserves in public corporations, which the committee did not previously have. It is interesting to note that you have outlined where only half a dozen corporations stand on public reserves. I had imagined that dozens of organisations had such pots of money, so it is good to hear clarification that there are only half a dozen.

We will open up to questions from members, with the first questions from Liz Smith.

**Liz Smith (Mid Scotland and Fife) (Con):** Notwithstanding the difficulties with timescales and uncertainties—which I think we all acknowledge, as a finance committee—I will take you back to comments that you made in reply to the convener's question about unallocated sums in the health capital budget. You were clear that you were giving a broad spectrum on a range of capital projects; you did not give us details on what those projects are. I ask this because, in recent weeks, the public have seen that some capital building projects have been paused. Can you give us a bit more detail on what the money is being held back for?

**Tom Arthur:** I clarify that the money is capital and has not been allocated through the spring budget revision that you refer to.

**Liz Smith:** Indeed—but the money is being held over.

**Tom Arthur:** The money is being allocated in-year and is part of the spring budget revision for 2023-24.

**Liz Smith:** But the money is not being spent.

**Tom Arthur:** As I say, the money would be classified as capital expenditure to support the existing wide-ranging variety of work within the health portfolio. I cannot provide you with a line-by-line list of all of the various expenditure that is classed as capital expenditure within the health service.

**Liz Smith:** I am not asking for a full list. In terms of public perception, the public see that certain building projects have had to be stalled. If there is unallocated money, I think that the question in the public mind will be to ask why that money is not being spent when there is obviously a very considerable tightening of the public purse?

**Tom Arthur:** Clearly, as I touched on earlier, we will have an exceptionally challenging set of circumstances around capital over the medium term, which the committee appreciates. Those circumstances form the context in which decisions on future capital projects—not just in the health service, but more widely—are considered.

The budget, of course, relates to the current financial year. This relates to ongoing activity that is part of the capital expenditure of the health service. I can appreciate the question about perception about money being allocated, but it is important to make the distinction between what is happening within this financial year—supporting ongoing NHS capital expenditure that covers a range of areas, which, I am sure, the committee appreciates—and what we are looking at from

2024-25 going forward, in the context of the capital constraints under which we will be operating.

**Liz Smith:** I understand that, minister. I think that you mentioned earlier that we always have the argument about underspend; there is not always good understanding about that. In this case, I think that questions will be asked because there is money that has not yet been marked as being for particular projects, or at least there is not—shall we say?—entirely full transparency about it. That is our difficulty in trying to explain it to the public.

**Tom Arthur:** I make the point on allocation and budgets that at the outset we allocate full amounts, but clearly there are developments, as the year progresses. There can be underspends, slippage or targeted savings, which can free up additional capacity. That applies to resource and capital and reflects the usual routine in-year budget management.

The challenges that we are facing were, of course, set out by the Deputy First Minister in the letter that she sent to the committee in advance of the UK autumn fiscal event. It is important to make the distinction that we are not in a situation where budgets are being set with some funding unallocated, but as we progress through the financial year, owing to the dynamics that I have referred to we will always seek to ensure, when resource or capital become available, that funding is effectively allocated to support the in-year position across public services.

**Liz Smith:** I am sure that it is a timescale issue. It is difficult to increase the transparency of how budgets work, but to make it clear we should, if there are specific projects awaiting that money, know what they are. That is the key issue, because—let us be honest—in recent years we have had big arguments about underspends at the end of the year, and the reason for underspend is not always clear.

I will move on to a question about the revised fiscal framework. It has obviously increased the Scottish Government's flexibility in relation to its borrowing powers. Has that had an important effect in terms of helping you to address some of the constraints that you face?

**Tom Arthur:** I think that, in the guide that we have provided to the committee, we refer to the additional flexibility around the reserve being welcome. I appreciate that we are right now operating in a challenging environment for public finances, but we highlight that that greater flexibility will be of considerable value in future years. For example, over the medium to longer term there will be an increase in our scope to borrow. Of course, we have to borrow sustainably

in respect of capital, but the flexibility will increase our scope to borrow, over time.

**Liz Smith:** Will that give a little bit more certainty to the planning process for capital spending in the future? Will it be beneficial to the Scottish Government to work with increased flexibility?

**Tom Arthur:** It certainly could be beneficial, but availability of capital is, of course, only one element: many other factors determine the viability of capital projects. We recognise that there have, in recent years, been challenges in terms of supply chain shortages and inflation. Pressures within the construction sector can have an impact, as well. Capital resource being available is not necessarily in itself a guarantee that an organisation's project can progress at the pace that it would want.

Broadly speaking, given that the challenge that we face right now is that lack of capital is constraining what we want to do, the additional flexibility is welcome. As that grows over the coming years, it will be of benefit.

**Liz Smith:** Okay. I will ask one final question, if I may, convener.

When it comes to capital investment, pressure on supply chains and greater inflation in the construction industry, for example, have obviously been among the difficulties for the UK and Scotland, recently. They have made things very difficult. Does the Scottish Government foresee those easing a little in its planning for big capital projects for the future?

**Tom Arthur:** There have certainly been changes from the position that we were in two years ago. Of course, the challenges persist; we have to contend with higher costs and the challenges that come with them, as a consequence of the period of high inflation that we have had. Inflation is still high, by historical standards. That presents ongoing challenges, as do the other factors that we have touched on.

We are committed to working within the limited flexibilities that we have, and to ensuring that we can work constructively and collaboratively to deliver capital projects. However, we have to set out very clearly the challenges that we are facing and their consequences for the delivery timescales of various projects.

**Michelle Thomson (Falkirk East) (SNP):** Good morning. I will follow up on a point that Liz Smith made. I have raised with the Deputy First Minister a question about inefficiency related to the annual budget process and significant in-year changes. It seems to me that that must incur a significant amount of sunk costs in redoing and repositioning

things, and so on. Am I right in having that perception, and is it also your perception?

**Tom Arthur:** Would any of us start from this position? I do not think so. Clearly, we operate within the broader UK fiscal framework. I cannot give you a prescription for a revised approach for the whole UK. The situation presents significant challenges. I think that an approach by the UK Government that was more cognisant of the impact on the devolved Administrations and their significant responsibilities would be in everyone's interests. That is not a political point—it is a technical point about how we do things, which I think could be improved.

Clearly, the situation creates challenges. We are getting towards the end of the year and are anticipating negative capital consequentials. What should we do when we are anticipating negative capital consequentials and have a requirement to balance the budget? Let us remember that we cannot spend a penny over budget and that we have very limited capacity to carry forward budget—barely more than 1 per cent—through the Scotland reserve. I have characterised the situation previously as trying to land a jumbo jet on a postage stamp. There are challenges.

There are various ways in which that could be improved—I am sure that the committee will have various views on this—but ultimately, the case more broadly is that every aspect of the public finances in Scotland is driven by decisions of the UK Government. The process, which does not get as much attention, and which we are considering this morning, also creates challenges.

Ultimately, there is asymmetry in respect of information that the UK Government has and information that we get. We have to make decisions based on assessment of risk and we have to take a cautious prudential approach and ensure that the budget balances at the end of the year. That creates challenges. I do not think that it is inevitable that we should have challenges because of processes related to devolution within the UK. Those things could be addressed, and the matter is worthy of consideration. Certainly, if the committee has particular views on it and wants to engage either with us or the UK Government, I would be very interested to have such discussions.

**Michelle Thomson:** You have set out what I thought, and very clearly. I suppose the point that I am making is that there is a cost to the inefficiency. If you were working in a law firm, you would itemise every hour to say what goes to this client and what goes to that client. Have you ever considered collecting the cost of inefficiency as fiscal events occur, and of late notification? A number being put on that inefficiency could very well be quite compelling.

**Tom Arthur:** That is interesting, because one of the things that has emerged in previous years is a question about provisional outturn and why money was not spent in the previous year. It will be spent; it will have been carried forward. If we were to spend money in March rather than in April, just for the sake of it, that would be quite inefficient. That would be allocation of capital and resource spending simply for presentational purposes when the accounts are published. That is, obviously, something that we avoid.

Particularly during the pandemic, we sometimes had significant funding through consequentials coming late, which posed challenges. For example, we saw higher amounts in the reserve being carried forward. All of that was discretionary spend; all of it was applied and no discretionary spend was lost.

You made a point about not having certainty; of course, that leads to challenges. I recognise the committee's particular interest in public service reform and I know that you are very engaged on that. Is what happens the optimal, efficient and effective way to manage the wider UK finances between the UK Government and devolved Administrations? I do not think so. I am not here to criticise; I think that the matter is worthy of further consideration.

If the committee has views on that, I will, as I said, be very keen to engage, because I feel that there must be a better way to do things. I recognise there could be trade-offs and that there can be benefits from other approaches—which might also come with particular challenges. I note the particular points about having to manage our in-year position with the tight constraints on what we can carry forward and late provision of information. That is obviously not the case only for the Scottish Government—it will be the case for all the devolved Administrations, and in the relationships between the Treasury and other Whitehall departments. It is a broader issue that ultimately reflects the fact that we are still in the position of the process being driven by the UK Government's approach.

10:30

**Michelle Thomson:** I will finish by noting some of the examples that you have given and pointing out that such additional post-Covid sums were exceptional—I think that we all appreciate that. Now that, with the recent changes, we have a more bedded-down fiscal framework, we have actually baked in some of these inefficiencies, and we need to try to understand what they might look like.

I have one other question that follows on from that. In reality, to what extent will the complexities,

uncertainties and inefficiencies in the Scottish and UK Governments' fiscal framework be reflected in the fiscal framework that is developed for local councils through the Verity house agreement? In other words, will they, at an even deeper level than might have been the case before, be saying, "This is no use to us, because it doesn't allow us to plan"? Do you expect that what you as a Government are dealing with will, in effect, be replicated in that way?

**Tom Arthur:** As part of the progress that we are making towards the fiscal framework, there are things to do with baselining, for example, that reflect the opportunity that we have through that direct relationship between the Scottish Government and local government.

Of course, as has been touched on, the broader context in which we operate is determined by the UK Government. I know that issues such as multiyear funding settlements are routinely raised by committees and members across Parliament, but, again, the challenges that we face will ultimately come down to decisions taken by the UK Government. We have been through what has been, economically and fiscally, a quite volatile period, but in the context of a politically quite volatile period for the UK Parliament and Government, with changes of personnel at the most senior levels. Again, that creates challenges, and there will always have to be a degree of realism about what can actually be achieved.

It is important to remember that, notwithstanding the Scottish Government's aspirations around Scotland's constitutional future, ours is ultimately a devolved Government within the United Kingdom, and the decisions taken by the UK Government will be predominant in the context within which we operate. Any of the work that we seek to carry out as part of our relationship with local government, and indeed with other partners, must always be cognisant of that context within which we operate. The level of discretion and autonomy that is available to an independent state is not available to the Scottish Government as a devolved Administration. That is not a political point—I am just stating the facts of the matter.

I come back to the earlier point that improving the way in which decisions are taken within the United Kingdom, the amount of information that is provided and the timelines would be in the interests of the Scottish Government and, indeed, our counterpart devolved Administrations.

**Michelle Thomson:** I will watch that with interest.

My last point comes back to a question that I previously asked you about police pensions and the extent to which the increase in them—and, therefore, provision for them—came about a result

of Covid-19. I thank you for your reply, in which I think you pointed out—and I am paraphrasing here—that that was not due to Covid-19 but was the result of the move from a final salary to a career average pension scheme. The legal challenge in that respect will also apply to other public sector professionals such as teachers, because they face the same issue, but the fact is that we have seen a difference with regard to the rate at which police officers are retiring. As a result, the change to the provision—compared with that of, say, teachers—was not necessarily entirely due to the change to the police's pension arrangements, given that it did not equally apply to teachers. Do you have any reflections on that?

**Tom Arthur:** Let me take that away and speak to pensions officials about it, because I do not want to give you an off-the-cuff answer. I would rather consider it in more detail. If you are happy for me to do it, I will speak to pensions officials, write back to you directly and copy the committee into that correspondence.

**Michelle Thomson:** Thank you.

**The Convener:** Are you sure that you do not have any more final questions, Michelle?

**Michael Marra (North East Scotland) (Lab):** Coming back to the NHS capital budget, I look forward to seeing the detail that you can provide on the list of projects. You mentioned this in one of your earlier answers, but do you have any indication of how much of the £235 million has been taken up by inflation? Will that amount cope with construction inflation, and do you have an idea of the proportions in that respect?

**Tom Arthur:** I cannot give you a specific analysis of the time value of those resources compared with what it was 12, 18 or 24 months ago. There will be broader statistical analysis of the overall impact of inflation within the construction sector and its impact on capital projects. I am happy to source that and provide it to you.

**Michael Marra:** I suppose that our questions relate to the pipeline of work. We have heard ministers—you included—talk about a 10 per cent cut, as you have called it, in capital expenditure, but it seems to have resulted in a 100 per cent cut in capital projects going forward in the NHS or in a full pause while you wait for further clarity. It would be very useful to get an idea of how much of that relates to legacy spend that has already been committed and therefore has to be coped with.

Perhaps I can contrast that a little bit with your approach to net zero and just transition. Capital spend in the NHS has gone up by £235 million, while the net zero and just transition portfolio is seeing a net decrease of £217.9 million. Is that a

decision that ministers have taken, or is that just the reality of where the projects find themselves?

**Tom Arthur:** You touched on it yourself when you mentioned capital spend; it is always about where we are with existing commitments and what requirements have to be met, and I know that that has been of some interest with regard to the capital allocations in the 2024-25 budget. As far as the net zero portfolio is concerned, either it has not been possible to deliver certain projects or changes to the profile of projects mean that they will fall in another financial year. There can be that kind of movement, given that the horizons over which capital projects are developed and actioned can go across multiple financial years. A number of different factors are reflected.

Moreover—and more broadly across the budget, including in resource—there can on occasion be demand-led schemes where the demand has not been what was anticipated or forecast. We have particularly sought to identify as early as possible where that sort of thing might emerge, so that we can reallocate the resource in an effective way. In certain areas—net zero, for example—it has not been possible to deploy the resource in-year, and as part of that in-year management, the capital has been reallocated.

**Michael Marra:** The contrast is quite striking, though. You are right in the detail that you have provided—there is a lot of delayed capital spend, including for heat in buildings projects, vessels, piers programmes, and port works at Uig, Ardrossan and Gourrock. None of these things is happening. Is this portfolio worse at delivering capital expenditure and its capital programmes than the NHS?

**Tom Arthur:** It just reflects the particular circumstances that attend these particular projects. As I have said, the commitments are there, but—and I touched on this earlier with regard to capital—different aspects and factors can have a bearing on the actual timeline for delivering capital projects. I think that such elements—indeed, we touched on the same thing with regard to business cases—are reflected in some of the decisions taken in that particular portfolio.

**Michael Marra:** Given that there is also a net decrease of £98.8 million in expenditure on the education side of things, it feels a little bit as if you are saying, “We can make this kind of short-term coping investment, but we are really struggling to do some of these longer-term projects and invest in the economy, net zero and education.” Is that representative of your feeling with regard to how we are delivering this capital expenditure?

**Tom Arthur:** In general terms, I would say that you have touched on a very important point. With

any programme of public service reform, any spend-to-save approach or any investment, what the constraining of budgets will mean for any Government—and it is one of the effects that we are still reeling from after the austerity that we have had at various points over the past 14 years—is that it will have to focus day to day on key, mission-critical tasks. Often the challenge that we have with reform is that we need to identify parallel funding to support change and transformation. That is just a general point, but all Governments have to contend with such things.

What we are seeing feeding through to next year’s budget, particularly around capital, are the consequences of decisions taken by the UK Government, which predominantly impact the discretionary fund that we have available. We are trying to manage that impact in a way that is consistent with the principles and values that the Government has articulated, in recognition of the key and central role that the NHS plays, not just in delivering public services, but as a key economic actor within the wider Scottish economy, too, and in recognition, too, of the key expectations that Parliament and indeed the public have that it be resourced adequately. That, again, has been reflected in the decisions that we have taken.

**Michael Marra:** Is that really the case with capital, though? We have a very under-delivered programme that already has huge backlogs, and you are pausing all new developments to try to bring the backlog of programmes in the capital development plan forward.

**Tom Arthur:** Capital projects have been impacted by what we have been through over the past four years, since the onset of the pandemic. We came out of the pandemic into a cost crisis. It is remarkable to think about the last four years: we had a global pandemic—the worst, in fact, for a century; a cost of living crisis; inflation at its highest level since the 1970s; and major conflict on the European continent. Moreover—and you will correct me if I am wrong—we had the Prime Minister whose tenure, the shortest of any in British history, ended with a catastrophic mini-budget. That is the environment that we are operating in.

Some of those factors are global and macroeconomic and not in the gift of any one Government; some are a consequence of situations that have been exacerbated by or which are directly attributable to decisions that the UK Government has taken. That is the context for all capital projects and all investment decisions that have been taken over the last four years. I think that it is extremely challenging, but we are seeking to work our way through that and to be very transparent about how we are doing so.

**Michael Marra:** I have a final question on the education side of things. I note a £29.8 million increase for the Scottish Qualifications Authority to support its on-going activities. Could you tell us what that money is for? After all, this is an organisation that, in 2021, we were told was not fit for purpose and had to be scrapped, because the leadership was failing. Should we be giving these people £29.8 million to spend when ministers have already decided that they are not capable of running their own organisation properly?

**Tom Arthur:** Perhaps I can clarify this—indeed, I sought to provide an answer to the convener earlier. That increase came about as a result of pay awards, an increase to appointee costs, inflation elements and other operational costs. In other words, it was all about pay and operational expenditure.

10:45

**Michael Marra:** I will finish on the social security side. You have touched on some of this already. There is a £284.2 million increase for demand-led expenditure, with a net impact of £50 million, given that there are areas where forecasts have decreased—I understand that. There has been an extraordinary rise in out-of-work benefits since the pandemic, which is a huge challenge across the UK and internationally. Is that something that ministers discuss when they talk about a demand-led budget? If that trend continues, our ability to cope with it within our resources must be a real concern for ministers.

**Tom Arthur:** Yes, it is something that we monitor carefully. The forecasts are produced by the SFC. We monitor the position carefully both for our end-of-year management and in looking at the longer-term trends.

On the broader point, the issue of those who are not in work due to ill health is topical and was covered in the press today, but it is also something that the Cabinet Secretary for Wellbeing Economy, Net Zero and Energy, Màiri McAllan, touched on recently in a speech in which she recognised the challenge and considered the role that we all have to play right across Government in supporting more people back into the workplace. The social security aspect is something that we monitor in-year and pay very careful attention to. We focus as well on the longer-term trends, and I know that the cabinet secretary is keen to engage on the broader point about labour market activity.

**Michael Marra:** There are clear economic effects from people not participating in the workforce. That would be of concern to us because of the impact on the taxation take. I know that you are not in the Cabinet, but do you know whether that is being discussed in the Cabinet?

The trend appears to me to be more pronounced in Scotland, although it is significant across the whole of the UK. We also have a higher unit cost in Scotland because of the Government's decisions and how it is spending money on social security payments. We are more exposed in this country. We already know of the £1.3 billion shortfall in the block grant allocations by 2027-28 against the social security budget. Do you think that the Government is getting a grip of this and understands its exposure? Does it have a plan to do something about it? I know that you are saying that you are aware of it, but what will the Government do to try to deal with it?

**Tom Arthur:** In saying that we are aware of it, I was just addressing the point that we recognise that issue. Of course, we are considering how the Government responds to those trends going forward. The system that we have in Scotland is still quite young. Of course, we will collectively develop our understanding the longer the system is in place and the further it embeds. We appreciate the points that you articulate about long-term sustainability and resource.

Again, this is something that we are carefully considering that will inform decisions that we take on the budget, but it is important to recognise that the support that has been provided through the social security system is invaluable to the individuals who receive it. It is an investment in the people of Scotland as well. It is important when discussing this matter that we recognise the impact for the individuals who receive that support and do not ever allow that to be lost when talking at a high level about numbers. The point that you make ultimately is that we need to be able to meet this expenditure on an on-going basis. That is something that we take very seriously, both from the perspective of public finances and from the perspective of the administration of the social security system directly.

**John Mason (Glasgow Shettleston) (SNP):** Going back to some of the stuff that has already been touched on, I was interested in a phrase that Scott Mackay used earlier:

“based on discussions with the Treasury”.

I had imagined—obviously wrongly—that in England they spend £100 million on the national health service and then we get £8 million or so as a consequential. I had imagined that it is all factual, the figures are there and it is automatic. The phrase

“based on discussions with the Treasury”

suggests that it is a lot more subjective than that. Is that because the Treasury itself does not know what the spending in England is? For example, it does not know whether the NHS will overspend or

underspend a bit, and that in itself will impact on us. Is that part of the problem?

**Tom Arthur:** I do not want to risk in any way being perceived as seeking to speak on behalf of the Treasury, but I will ask Scott Mackay whether he can offer some reflections from the experience of officials.

**Scott Mackay:** The final figures are firmly based on the changes in funding for UK departments. Obviously, as we go through the supplementary estimate process, there is negotiation between the individual Treasury teams and the equivalent UK departments as they refine what the requirement is for the supplementary estimate. It is a developing position and we try to engage with our Treasury team to get a sense of how that position will pan out.

As we have said already, the Treasury team know that we have a requirement to deliver our budget revision to a certain timetable. There is a commitment from them that they will give us an emerging picture as early as they can as we move into January, so that we have an idea of how things are developing. We then take a judgment on what funding we can put in the SBR in advance of having that final sign-off. However, that final sign-off is absolutely Barnett based. We get a line by line analysis of the individual changes for UK departments.

**John Mason:** Will the timescale for that be well after the year-end?

**Scott Mackay:** No, that is what the minister was referring to earlier. We got that by the end of February but, obviously, that was too late for us to have incorporated all that detail.

**John Mason:** It sounds as though it is not a lack of willingness on their part, but also that they are a wee bit in the dark. Sometimes we get announcements at Westminster that the UK Government will spend £100 million on X—it came up quite a lot during the Covid pandemic—but we do not know whether that is new money, in which case we get a share, or it is a reallocation of existing money. Is that part of the problem as well?

**Scott Mackay:** Yes—

**Tom Arthur:** Just before Scott Mackay comes in, I will make the point that we are four weeks or so before the start of the next financial year and we have a UK fiscal event tomorrow. Everything that we know in the Government and, indeed, I think around this table is based on speculation that we will have read in the newspapers. In terms of the overall process, you can understand the challenges. That is just reflective of some of the broader challenges that can emerge in terms of

what the UK Government will do. Sorry, you can come back in, Scott.

**Scott Mackay:** The Treasury is usually pretty good at giving us an indication as to whether it is new money or money from existing budgets, and the default is usually that it will be from an existing budget. There is always a challenge, because funding can be announced and the Treasury will say, “This is new money,” but then the amount can be refined over the course of the year, or it can turn out that we do not get confirmation of that amount until the supplementary estimate. The Treasury does only the main estimate and one supplementary, so there is limited opportunity for updates of the in-year position.

We could talk about the £500 million of local government money that was announced. The Treasury has said that that is new money. It might be that that is confirmed in the budget tomorrow. It might be that we do not get that until the main estimate. It might even be that we do not get it confirmed until the supplementary estimate because, all the time, there will be dialogue between the Treasury team and the spending department on what its requirement is.

The UK Government has rehearsed publicly the pressures that are on public spending. Additional funding is given only on the basis of absolute need, so often things can be left right to the supplementary estimate, because that is when the Treasury is getting the final position from a UK department on what its funding requirement is. There has been pressure on all UK departments to contain spending, and that is what filters through at the end of the year.

**John Mason:** That is helpful in allowing us to understand the position that you are in as well.

When we get to the end of the year and there is an overspend or an underspend, I look at it to see whether it is around 1 per cent. If it is around 1 per cent, I have to say that I think that that is very good. I know that the numbers are very big and that 1 per cent is quite a big number, but I think that for most of us, in our own personal spending, we would never get it within 1 per cent. Most businesses would not get within 1 per cent. That is just by way of comment.

**Tom Arthur:** We almost have to target a level of underspend so that we do not go over, but if we did not land in that space and went beyond 1 per cent—it is slightly more than 1 per cent, given what the reserve represents as a carry-forward—that would be resource or capital that we have lost. It is a challenge and I think and hope that, collectively as a Parliament, we are getting a bit more accustomed to that reality and that, when underspends are reported as part of a provisional return, it is just part of a routine operation of the

fiscal framework rather than some suggestion that there has been resource that could and should have been allocated that was not.

**John Mason:** I fully agree with that.

I will move on to some specifics. I am going through the guide, so hopefully the paragraphs match.

**The Convener:** I hope that you are not going through every paragraph.

**John Mason:** Not every paragraph.

**The Convener:** That is good.

**John Mason:** I will stay within the 22 minutes that you took.

Paragraph 18 talks about some overspends or additional funding for the Scottish Children's Reporter Administration, the Scottish Social Services Council and Children's Hearings Scotland. I do not know whether that is just strictly because of pay increases or whether there are other factors. As I think you know, the committee has been concerned about the number of commissions, commissioners and semi-separate organisations and I would be concerned if the costs of those were slipping.

**Tom Arthur:** I will see whether we can bring up the details. If we cannot, we will follow up.

**Scott Mackay:** That is largely pay and inflationary pressures that have to be funded.

**John Mason:** I have not checked back to see what the percentages were but, obviously, pay is going up 7 per cent or thereabouts. Some of these are quite small amounts, but it is the principles that I am thinking about.

Paragraph 26 talks about £4.75 million for the Covid-19 inquiry. It concerns me a little with some of these inquiries that the costs can run away, which I think happened with the Edinburgh trams inquiry. Is there a control on such inquiries, or is it very much up to the person leading the inquiry what the costs end up being?

**Tom Arthur:** We are all familiar with the rules that govern these inquiries and their autonomy and independence.

**John Mason:** Do they have complete autonomy?

**Tom Arthur:** When inquiries are established and in train, we of course comply with the legislative requirements .

**John Mason:** Okay.

We have already mentioned prisons. Paragraph 47, on the justice and home affairs portfolio, talks about the reprofiling of capital for HMP Highland and HMP Glasgow. Is it your expectation that

there has been such high inflation in construction costs that that might come down, so we could save money in the long run, or is it the case that, if we reprofile, the costs will inevitably go up?

**Tom Arthur:** I think that the environment that we are operating in right now is reflective of the sustained inflation that we have seen, which we touched on earlier. Inflation would probably be regarded as quite high had it not been for the context that we have just emerged from. We set out earlier the reasoning and the rationale as well as the broader capacity challenges in the construction sector. It is reflective of a number of different factors.

**John Mason:** Costs could go up further or they could go down a bit—we just do not know.

11:00

**Tom Arthur:** Given the various factors that can impact on capital projects, including some that are geopolitical, as we have touched on, I would not be in a position to say where things will be a year, two years or five years from now. I would defer to the broad suite of independent forecasts and assumptions that are freely and publicly available on these matters.

**John Mason:** We have discussed capital expenditure and borrowing. I note that paragraph 89 says that

"The improved position has allowed the Capital Borrowing requirement to be reduced, by £150 million from £450 million",

which means that the plan is to borrow £300 million, although that could still vary by the end of the year, presumably.

**Tom Arthur:** Decisions on borrowing, which are one of the few flexibilities that we have, are taken at the end of the year. The capital position has allowed us to move to the position that you have outlined.

**John Mason:** Although the target is to borrow £450 million, which I think is the maximum that we are allowed to borrow annually, it is likely that we will end up slightly below that each year.

**Tom Arthur:** Yes.

**John Mason:** On the financial transactions money, I think that £53 million is being deferred to 2024-25. Will you explain to us what impact that will have? If I am not mistaken, some of that was used for housing in the past.

**Tom Arthur:** I appreciate that the role of the financial transactions budget has been a matter of some interest. I think that the notification of the financial transactions reduction was fairly late and that the Treasury agreed to defer that to the



following year, given the lateness of the notice. My officials can correct me if I am wrong about that.

**Scott Mackay:** There was a very late upswing in the negative consequential, so we have been allowed to defer it.

On your question about the use of financial transactions, the two largest users of financial transactions have been housing and the Scottish National Investment Bank. The squeeze on FT budgets means that, generally, because the profile of the budget that is available is going down, less is available, and that is compounded by the negative consequentials that we need to manage.

**John Mason:** That could mean that there is a little bit of leeway for SNIB and housing next year.

**Tom Arthur:** Could you clarify what your question is, Mr Mason?

**John Mason:** Mr Mackay has just told us that the financial transactions money mainly goes to SNIB and housing. Does that there will be a bit more leeway next year, or is that already built in to the budget?

**Tom Arthur:** We have set out the position for 2024-25 but, as we are reflecting on today, the final budget for 2024-25 will be determined by decisions that the UK Government takes. I made reference to the fiscal event tomorrow—I do not know what will be in that—then there will be the process of main estimates and supplementary estimates, and, of course, a general election is anticipated this year. Therefore, a number of factors can impact on the Scottish budget position during a year.

Our position is set out in the budget document. Any changes that materialise during the year as a result of UK Government fiscal events will, of course, be reflected in the normal way through the budget revision process.

**John Mason:** Thank you. My final point is about paragraph 101, which covers the Scotland reserve. The idea is that

“over time the Scotland Reserve could become more of a genuine reserve of funds.”

That would allow us to save a bit. However, at the moment, as the Government has pointed out, there is just not the leeway to do that. Do you anticipate that we might be able to put money aside at a future point, or do you think that the pressure to always spend as much as we can is too great?

**Tom Arthur:** We have seen the Scotland reserve operate in different ways. Clearly, given the way in which we have to balance our budget, it is unavoidable that underspend will be generated, and, sometimes, that underspend will emerge after the end of the year. We have also seen the

reserve play an important role when we received late consequentials, particularly when we were coming out of the pandemic period, which has allowed us to ensure that resources better align with the optimal time to spend them. We have seen the reserve operating in those two ways.

As to whether the reserve develops into more of a reserve rather than continues as a function for allowing money to be moved from one year to the next, that will depend on a number of factors. The most prominent of those will be the fiscal settlements that we receive from the UK Government, and there will be demand commitments and so on. Is there anything that you want to add, Scott?

**Scott Mackay:** The forward projections on the tax position show quite significant positive reconciliation impacts on income tax currently. One idea that has been floated is that we would deposit positive reconciliation in the reserve against future negative reconciliation impacts, but the scale of those impacts could be so significant that it would take up a significant chunk of the reserve even with the additional flexibility—the growth—that we will see in future following the fiscal framework renegotiation. A couple of reconciliations of £400 million or £500 million would exceed the limit and, as the minister said, we need that flexibility for year on year spend.

**John Mason:** That is helpful. That is something that we will return to.

**Jamie Halcro Johnston (Highlands and Islands) (Con):** Good morning. Liz Smith and Michael Marra covered a lot of ground in relation to the additional capital spending in the NHS. You said that you will provide further information. Will that include a breakdown of projects that sets out whether the cost increases are inflationary and non-inflationary, whether those are new capital projects and whether there are refurbishment issues and so on?

People have raised concerns about the moratorium on new builds with me a number of times. That means that our NHS boards will likely have to invest more heavily in refurbishment because they will not be able to build new hospitals or facilities. Will that information be provided in your written response to the committee?

**Tom Arthur:** We can certainly incorporate the high-level impact of inflation on capital projects and of construction pressures in the construction sector in the response to the committee.

**Jamie Halcro Johnston:** I am also interested to know where the issue is not just inflation but where there are simple cost overruns. I ask that that be included as well.

**Tom Arthur:** We will endeavour to provide as much information as we can to reflect the committee's asks.

**Jamie Halcro Johnston:** On a technical and process point, you have identified areas in which you can invest more or in which you need to increase capital spending. How does that process happen? How are the individual projects identified, and what are the timescales for that?

**Tom Arthur:** Is that in terms of capital projects?

**Jamie Halcro Johnston:** In terms of the revisions.

**Tom Arthur:** Again, as I said, I am happy to see whether we can cover some of that in our correspondence to the committee.

The capital is in-year as opposed to the next financial year. It is there to support the existing position and the on-going cost pressures in the health portfolio. The capital is allocated to support the existing activity that is taking place in this financial year.

On your broader point about what those pressures are and, indeed, about the different ways in which capital is used, whether it be for new projects or for maintenance for example, I would be happy to try to pick some more detail on the issue of capital expenditure with regard to construction and maintenance.

**Jamie Halcro Johnston:** I suppose that what I am asking is this: when do you first become aware, or when is it confirmed to you, that a project will need additional support in the current financial year, and how does that process work?

**Tom Arthur:** I ask Scott Mackay to talk about the engagement that takes place in Government to identify priority spend areas.

**Scott Mackay:** We have well-established monitoring processes that all portfolio areas feed in to with spending projections on both resource and capital. They are signalling, as early as they become aware of them, of additional funding requirements over the year. Part of what we have been talking about is the challenge of juggling that with the funding uncertainty that we have.

In addition to in-year monitoring. We have a well-established programme on and an awareness of the overall capital projects across each portfolio and the scope to vary the profile of those over the year. There is active management of that programme in-year. For example, if there is slippage in one area, we know that there is scope to advance some expenditure in other areas. A dialogue takes place over the year about what capacity exists in individual portfolio areas to redeploy such resources elsewhere.

**Jamie Halcro Johnston:** Would some projects be reprofiled to allow the movement of additional capital to other projects that are facing difficulties?

**Scott Mackay:** We would actively manage that over the year. It is easy to think of capital budgets as just supporting new infrastructure projects, but there are other elements to it. For example, some research and development expenditure is capitalised and funded from capital budgets. Another example is equipment in the NHS that has been identified as a key area for investment. Obviously, we can bring forward spend on that more easily than we can bring forward spend to build a new medical centre or whatever.

I guess that point that I am trying to make is that, when making judgments on what is available and how we can deploy capital, some areas are more easily switched on than others.

**Jamie Halcro Johnston:** That is what I am trying to clarify—the process behind it. As you said, decisions might be made to prioritise one area over another, and those might be perfectly reasonable priorities. However, it could be that projects are reprofiled, put on hold, slowed down or whatever in order to deliver in other areas or in areas where there is, say, an overspend or that face inflationary issues.

In relation to the £75 million and the £41 million for vessels and piers in the ferry services budget, how much of that is capital and how much of it is resource? Are you able to say? Sorry—I should have given you a little bit more notice on that.

**Craig Maidment:** The £75 million is entirely capital. What did you say the £41 million was for?

**Jamie Halcro Johnston:** That was for phase 1 of the small vessel replacement programme.

**Craig Maidment:** That is entirely capital.

**Jamie Halcro Johnston:** Okay—they are both entirely capital. I was going to ask where that sits in relation to road equivalent tariff funding but, as those are capital budgets, that would not apply.

**The Convener:** Gillian Mackay was going to ask some questions, but we have just been informed in the past couple of minutes that she is due at another committee, which we did not know before we started this item, or we might have been a bit tighter on our time. I thank her for her attendance.

Incidentally, I was also going to ask about small vessels, given my constituency interest, but we have a statement this afternoon on Ferguson Marine, so the issue may come up there.

With that, we will end our questions on the instrument. I invite the minister to speak to and move motion S6M-12053.

*Motion moved,*

That the Finance and Public Administration Committee recommends that the Budget (Scotland) Act 2023 Amendment Regulations 2024 [draft] be approved.—[Tom Arthur]

*Motion agreed to.*

**The Convener:** I thank the minister and his officials for their evidence. We will publish a short response to the Parliament setting out our decision on the regulations in due course.

I suspend the meeting for a couple of minutes to allow for a changeover of officials before we move on to the next agenda item.

11:15

*Meeting suspended.*

11:18

*On resuming—***Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2024 (SSI 2024/60)**

**The Convener:** Under the next agenda item, we will take evidence from the Minister for Community Wealth and Public Finance on the order. Mr Arthur is joined by Robert Souter, who is a senior tax policy adviser at the Scottish Government. I welcome Mr Souter to the meeting and invite Mr Arthur to make a short opening statement.

**Tom Arthur:** Thank you, convener. The Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2024 specifies a standard rate and lower rate for Scottish landfill tax that would apply from 1 April. The rates are consistent with the rates that are set out in the Scottish budget for 2024-25, which was published on 19 December 2023. The order sets out that the standard rate will increase from £102.10 per tonne to £103.70 per tonne, and a lower rate for less polluting inert materials will increase from £3.25 per tonne to £3.30 per tonne. Committee members will wish to note that the rates match landfill tax rates in the rest of the UK for the financial year 2024-25 as confirmed in the UK and Welsh budgets.

The Scottish Government is continuing to act to avoid any potential for waste tourism to emerge as a result of material differences between the tax rates north and south of the border. The increased rates provide appropriate financial incentives to support delivery of our ambitious waste and circular economy targets.

**The Convener:** Thank you very much. I have noticed that, over the past eight or nine years, the inflation rate has been 31.5 per cent in the UK, but the standard rate is going up by 23.6 per cent and the net rate by 25 per cent. I realise that you have

been effectively mirroring UK rates, but why is the increase lower than the rate of inflation, given that the whole purpose is to try to reduce the amount of landfill? Indeed, over the past decade, there has been a significant reduction in the revenue from the tax despite the costs going up.

**Tom Arthur:** Indeed, the revenue has declined as was forecast, and it will continue to decline as per the policy intent and objectives. As I said in my opening statement, the rationale for the rate being consistent with that of the UK and Wales is to avoid the risk of waste tourism from emerging. That rationale underpins the approach that we have taken with the tax.

**The Convener:** There has never been any divergence, has there? Has anyone looked at what the cost of shipping a tonne of waste 100 miles is, for example? A rate of around £3 a tonne for inert waste does not seem very much. Is it likely that someone would ship a tonne of waste from Edinburgh to Newcastle or wherever to save £3?

**Tom Arthur:** I can appreciate that there will be a range of views but, along with seeking to mitigate the risk of waste tourism, we have always wanted to provide a degree of certainty and stability for the sector as well. Furthermore, we have a clear target towards the end of 2025 and our approach on tax policy is consistent with that.

**The Convener:** I understand that the proportion of inert waste is about 35 to 40 per cent. Is that a significant increase on a decade ago?

**Tom Arthur:** Robert, do you have any information that you are able to share on that point?

**Robert Souter (Scottish Government):** Sorry, but can you repeat the question?

**The Convener:** Yes. Has the amount of inert waste as a share of the total waste that is going to landfill increased over the past decade or does it remain fairly stable?

**Robert Souter:** I do not have the exact numbers but, yes, it has increased slightly as a result of non-inert waste reducing more quickly.

**The Convener:** Why is inert waste not reducing quite so quickly? Is that because there is no tax incentive to change, for example?

**Robert Souter:** For non-inert waste—that is largely household waste, including black bin bag waste—there have been increases in recycling and a shift towards incineration. The same options are not available for inert waste.

**The Convener:** I am inquiring because the evidence session after this is on a similar issue. The £102.10 rate that we have in the current financial year seems like quite a disincentive but

the £3.25 rate does not. That is why I am wondering whether that has impacted significantly on the level of inert waste increasing relative to the level of non-inert waste.

**Tom Arthur:** It is certainly an important observation. However, of course, the policy of landfill tax sits as part of a broader suite of objectives aimed at achieving a circular economy, which I know that the committee has been taking a keen interest in. I am conscious that, more broadly, the committee will be beginning its scrutiny of the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill, which I am looking forward to engaging with you on.

**The Convener:** Just one last question. I understand that there has been a significant increase in fly-tipping across the UK. Do you know how much fly-tipping has increased in Scotland, and whether the tax on non-inert waste has impacted on that? There are suggestions that it may have had an impact.

**Tom Arthur:** On the specific interaction between the lower rate and the quantity of fly-tipping that we have seen, I do not have any direct data analysis that can show any correlation at this point, but I am happy to—

**The Convener:** Sorry—I am asking about the higher rate, not the lower rate. The higher rate is more than £100 a tonne. The revenue to the Scottish Government is decreasing because less is going to landfill. Is that because there is a genuine and significant change in behaviour, or is fly-tipping going up? Is it more likely to be both those things?

**Tom Arthur:** I cannot speak to what particular factors are influencing that behaviour, so I cannot isolate the extent to which the relevant tax rate impacts that behaviour. The Scottish Environment Protection Agency works with a range of partners to address the issue, which sits in the broader environmental and circular economy policy areas.

If the committee has a particular interest in relation to any analysis that has been undertaken on the interaction between the higher rate and the propensity for fly-tipping in particular areas, I am happy to take that away to find out if there is any further information that we can provide. I note that the rate that we have set is on par with the rate that is set in the rest of the UK.

Do you want to come in, Robert?

**Robert Souter:** No; I have nothing else to add.

**The Convener:** Yes, it is on par with the rest of the UK, but if someone has 20 tonnes of stuff, they might pay somebody £500 to dump it in a field as opposed to pay £2,000 in tax; that is the issue.

My concern is that inert waste might not be taxed at a rate that is high enough to change behaviour, and that the standard rate might be taxed higher than it should be, despite the fact that it has increased by a rate that is lower than the level of inflation in order to encourage more responsible dumping.

**Tom Arthur:** As I said, I am happy to take that away. As I mentioned in my opening statement, we have a long-standing position on landfill tax, which is consistent with that of the other Administrations in the UK. Our policy objective is to ban biodegradable municipal waste going to landfill at the end of 2025. We are seeing the forecasted reductions in revenue; the direction of travel is consistent with meeting that ambition.

**The Convener:** Private companies and local authorities are very responsible in how they deal with waste; they follow the regulations that apply. Have there been any prosecutions of unlicensed and unregulated dumpers?

**Tom Arthur:** I do not have that information available, convener.

**The Convener:** I will share some anecdotal information. I watched a BBC programme about fly-tipping. It covered England, but I do not think that the situation will be much different in Scotland. Some businesses feel that they are very highly regulated as a result of the increase in fly-tipping but that SEPA almost turns a blind eye to those who are not. Therefore, revenue from the tax is decreasing not just because less waste is going to landfill but because more waste is being thrown over hedges and dumped in fields.

**Tom Arthur:** You raise a broader suite of questions about enforcement and the role that other partners play in that. The administration and enforcement of tax collection is a matter for Revenue Scotland, which operates independently as the relevant tax authority.

On your questions about the interaction of tax policy with specific behaviours, I am happy to take that away to establish what, if any, analysis has been undertaken on that, and I will ensure that the committee is furnished with any relevant information that we hold.

**The Convener:** Okay; I appreciate that.

**Liz Smith:** As the convener has been discussing, the issue is about whether the measures that we have to deal with the problem are effective. I think that I am correct in saying there have been a couple of prosecutions in Scotland, but this is about the deterrent factor. What modelling has been done to demonstrate whether the measure will have a really big deterrent effect?

**Tom Arthur:** Clearly, broader behaviour with regard to complying with environmental regulations goes beyond tax policy. Ministerial colleagues lead on those areas, and I would not want to speak about an area in which I do not have a direct policy lead.

The role that tax plays has been recognised. Important points have been raised. I want to have an opportunity to take those points away and come back to the committee to speak to how those factor into the considerations on rates.

As I have set out, the broad underpinning principle—the rationale—for the measure has been consistency with the rest of the UK. Correct me if I am wrong, but I think that the questions that the committee is asking are: has consideration been given to changing the rate to incentivise other behaviours, and how would that be balanced against any potential risk of waste tourism? Would that be a fair summation?

**Liz Smith:** Absolutely. It is a very difficult area, because it is very hard to identify a lot of the bad behaviour. That is a really big issue. Any modelling that could be carried out on behavioural change would be very helpful, because that is what this is about, by and large.

**Tom Arthur:** Indeed.

**The Convener:** I remain unconvinced that people will ship a tonne of waste across the border to save a pound, or whatever it would be. They are much more likely to dump stuff in a field a mile up the road.

As there are no other questions from colleagues round the table, we move to the next item, which involves formal consideration of the motion. I invite the minister to speak to and move motion S6M-12277.

*Motion moved,*

That the Finance and Public Administration Committee recommends that the Scottish Landfill Tax (Standard Rate and Low Rate Order) 2020 for SSI 2024/60 be approved.—  
[Tom Arthur]

*Motion agreed to.*

**The Convener:** I thank the minister and his officials for their evidence today. I will suspend the meeting briefly to allow for a changeover of witnesses before we move on to the next agenda item.

11:30

*Meeting suspended.*

11:35

*On resuming—*

## **Aggregates Tax and Devolved Taxes Administration (Scotland) Bill: Stage 1**

**The Convener:** The next agenda item is evidence on the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill. I welcome to the meeting Jonathan Sharma, policy manager for local government finance at the Convention of Scottish Local Authorities; Alan Doak, director of the Mineral Products Association Scotland; and Dougie Neill, the group general manager for NWH Group, who is representing the Scottish Environmental Services Association.

I intend to allow up to 90 minutes for the session. If witnesses would like to be brought into the discussion at any point, please indicate to the clerks and I will call you. Rather than having an opening statement, I will move straight to questions.

Mr Doak, the bill's policy memorandum states that the proposed Scottish aggregates tax retains the fundamental structure of the United Kingdom aggregates levy and offers

“a degree of continuity for taxpayers ... while also ensuring that the devolved tax can evolve over time to support Scottish Government circular economy objectives.”

How does a tax of £2 a tonne deliver that?

**Alan Doak (Mineral Products Association Scotland):** It is fair to say that the £2 rate of taxation has been in place for quite a considerable number of years, through the UK aggregates levy. As part of that process, we have seen continued growth in the use of recycled materials and secondary aggregates. Current research, certainly from the Scottish Government, has indicated that something like 89 per cent of secondary and recycled aggregates are being used within the market.

**The Convener:** You are basically saying, as you do throughout your submission, that at 89 per cent we are almost in effect reaching the optimum amount, if you like, of what can be recycled. Therefore, any additional taxation that is imposed, should the Scottish Government's bill plan to diverge from the UKAL—it does not plan to do so at this point, as far as I am aware—will not deliver any further recycling.

**Alan Doak:** I do not think that the bill clearly stipulates a rate or rates.

**The Convener:** No, but the Government has indicated that.

**Alan Doak:** I want to make a point in respect of the on-going extraction of what you might call virgin aggregate. At the moment, say that we are using 87 to 89 per cent of the recycled aggregate—I think that the figure has varied over the last couple of years in the documentation that has been produced. However, there are restrictions and limitations that mean that certain materials do not meet the criteria that are required of virgin aggregate, or the specifications for roads or other projects. There is a limit to how much recycled or secondary aggregate can be used.

I do not think that there has been any fundamental research on the availability of further markets or, indeed, on the further availability of construction and demolition waste within Scotland. That is one of the key points that I would like to try to get over. While there may be an objective for the tax to drive the greater use of recycled materials, there is perhaps a restriction—or an unknown, put it that way—with regard to what the availability and consistency of that material might be.

**The Convener:** I will bring in Mr Neill in a minute. Last week, we visited a recycling facility and they basically said that there can be, on occasion, limitations with feedstock provision, which, again, you mentioned in your submission. They also said that something like 4 million tonnes of waste that could be recycled is being dumped into landfill and that 35 to 40 per cent of landfill is waste that could be recycled. Is that a figure that you would recognise?

**Alan Doak:** That figure is not quoted in the national consultation document “Breaking New Ground?”. I do not think that there has been any detailed research on the level of availability—and that is not only in terms of the quantity of material that is available, but its quality.

I should say at the outset that, although I represent the Mineral Products Association in Scotland, our members are not interested only in the extraction of virgin aggregate. I have members who are clearly involved in recycling. They are involved in both aspects, not just one or the other. There are businesses that combine both facets and seek to maximise the amount of recycled materials that they use. As a trade association, we do similarly. For example, we wrote fairly recently to Transport Scotland about the greater use of recycled materials in the TS2010 surface course specification and guidance. We are mindful, as an organisation and as a trade body, of the use of recycled and secondary materials and so are our members.

**The Convener:** Mr Neill, you said in your submission that the production of recycled virgin aggregate

“currently benefits from the UK Aggregates Levy. It is therefore essential that the Levy in Scotland (the Scottish Aggregates Tax) is maintained and also increased to ensure that recycled and secondary aggregates are competitive with primary aggregates in line with Scotland’s resource efficiency aims.”

That is laudable. I am just wondering about the issue that Mr Doak raised about the availability of those materials. If there is optimum utilisation—or near enough—at the moment, would increasing the levy have the impact that you would desire of creating an incentive to do more recycling? Is the resource available to do that?

**Dougie Neill (Scottish Environmental Services Association):** The resource rises and falls depending on the construction and demolition markets. At this moment in time, we are in a bit of a lull as regards new builds or builds being taken down to allow the material to be extracted from building sites, although I would caveat that. Apologies for going back to it, but I was sitting in for the previous agenda item when there was discussion about the landfill tax for inert waste maybe not being too high. If we have a supply of what we call feedstock, we can turn that into recycled aggregates, but if there is not a market at the other end of that, it encourages more to go into landfill, especially with a lower-rate tax of £3-something. There is no financial incentive to bring that back to be recycled, just to turn a bigger pile into an even bigger pile.

There is more that we can be doing. The recycling equipment that is available has come on in leaps and bounds in the last 10 to 15 years that I have been involved in the market. We are able to recycle more materials that would previously have gone to landfill, but it is a bit more intensive and a bit more costly to do so. The financial argument needs to be there to divert more from landfill.

**The Convener:** You are saying that to enable greater investment in new technologies that will upgrade the quality of secondary materials, you are looking for an increase in the levy. Would I be right in saying that?

**Dougie Neill:** Yes, and to put that into context, our organisation has been saying that for many years. We talked about waste tourism before, but this is at the other end of the spectrum. The paper mentions that if cross-border arrangements became separated and divorced from what the rest of the UK is doing, that could lead to complexities in the application of the tax rates. I understand the need for consistency, and the bill sets out to be consistent, but if we are going to pull a lever to change behaviours, this is the opportunity that we have to do that.

**The Convener:** Your submission talks about secondary aggregates and, in particular, incinerator bottom ash aggregate, being

“strongly reliant upon the Scottish Aggregates Tax to remain competitive in a challenging market, allowing large-scale landfill diversion and avoidance of raw material extraction.”

One of the issues that were raised during our visit last week was that, although the quality of recycled materials is improving all the time, there is still a view that they will never be as good as primary aggregates in certain areas.

11:45

**Dougie Neill:** I will touch on the issue of incinerator bottom ash aggregate. Obviously, the push towards the landfill ban and the increase of what we call energy from waste plants, where we incinerate the residual waste to power the national grid, has produced the material that comes out the other end. Basically, it is ash. As yet—I know that this is probably crossing over different departments—we have failed to receive a waste classification for that material type, which makes it particularly difficult to get it into applications and to have a market for it. We are finding that a lot of that ash is just getting piled up in landfill sites.

There is a challenge around IBAA and what it can be used for. As you see in our submission, SEPA has issued what it calls a position statement, which says that IBAA can be used, but only in a very narrow series of applications. It cannot be near to a water table or close to a river and it can go down to only a certain depth. The applications are very narrow. Other countries are maybe a bit more progressive; for example, the Netherlands builds runways and roads and reclaims land with that material. There are uses for it. However, I appreciate that this committee is not advising SEPA on that. The challenge is that, if the aggregates levy is not maintained or increased, all that will happen is that, although we are doing good work diverting waste from landfill, we will end up with the secondary problem of incinerated bottom ash taking its place.

**The Convener:** Mr Sharma, in COSLA’s submission, you ask:

“Should the intention be to increase the incentive to move away from sourcing primary aggregates to secondary recycled aggregates, then how might this impact on Councils’ ability to procure at reasonable cost?”

I take it that you are looking for a break whereby, if local authorities or other public authorities were buying aggregates, there would be a tax on primary aggregates but not on secondary aggregates. How would a bigger shift to secondary recycled aggregates have an adverse impact on COSLA?

**Jonathan Sharma (Convention of Scottish Local Authorities):** The point has already been made that there is not necessarily a completely

open market for accessing secondary recycled aggregates. The point that COSLA is making is similar to other points that it makes in its submission. Councils are substantial procurers of aggregates and run quarries, so if the aggregates tax rate per tonne goes up significantly, how will councils be able to continue to afford to do the work that requires aggregates, particularly maintenance of the road network? The question comes back to how the aggregates tax can work to encourage, and increase the supply of, recycling.

**The Convener:** In one breath, COSLA is saying that it is not keen on the aggregates tax going up, because local authorities purchase large quantities of primary aggregates and there would therefore be an impact on their cost base, but, at the same time, COSLA wants to encourage greater use of recycled aggregates. Are those not contradictory objectives, given the fact that the levy is required in order to create a cost differential so that companies can invest more money in equipment for recycling?

**Jonathan Sharma:** There is an existing aggregates levy and, when the aggregates tax is introduced, it should be seen, at least initially, as a lever and as one of the suite of things that can be done. We do not oppose the idea of councils having to pay the tax along with other procurers. The point is that, if the aggregates tax in Scotland is going to be a bit different from the aggregates levy, there should be greater focus on the suite of measures that could be taken.

Last Friday, I heard from COSLA’s environment and economy board that, for example, there is a willingness for councils to use more secondary aggregates from building materials, but there needs to be investment, too. There is an opportunity when such a tax is introduced. Earlier, the point was made that we now have the opportunity to respond to the challenges more effectively and to recognise the circumstances more closely. We are not saying that we do not anticipate that the tax rate could go up—it is obviously up to ministers to determine whether it goes up—but we could look at things differently, and perhaps increasing recycling could be part of that.

**The Convener:** If, as Mr Neill said, the Netherlands can build runways with recycled materials, is there no reason why roads in Scotland could not be resurfaced using recycled materials, assuming the regulations could be adapted to allow that to happen?

**Jonathan Sharma:** I am not an expert on roads, but I got the sense from the board members on Friday that, if there was a significant increase in the tax rate, road services might be affected the most. Equally, there are opportunities

for recycling and to use secondary aggregates differently. We should try to encourage that alongside the incentivisation in relation to the tax rate.

**The Convener:** Mr Doak, in paragraph 16 of your submission, you say:

“English producers may be keen to exploit any substantial increase in rates in Scotland.”

That depends on what you mean by “substantial”. What would you describe as “substantial”?

My understanding is that the Scottish Government does not intend to do this, but what if, for example, it decided to increase the rate from £2.03 per tonne, which is what it will be from April, to £3 per tonne? Given the cost of shipping or trucking aggregates, would an increase of £1 per tonne really mean that people would be shipping vast quantities of aggregates into Scotland? I would have thought that the cost of the shipments would be much higher than £1 per tonne once the fuel, the lorry driver and so on had been paid for. There are also not many highly populated areas near the border between Scotland and England; most of the cities that would use the aggregate are further south.

Therefore, would such an increase have a real impact? In other words, what is the elasticity of demand? Conversely, if the Scottish Government reduced the tax to £1 per tonne, would there suddenly be huge demand for Scottish aggregates in England? That seems a bit unrealistic—we are talking about £1 per tonne. I am struggling to see how changing the rate in either direction would have a major impact.

**Alan Doak:** You are right in what you said about price elasticity. We are commenting on a bill that does not state the rate in it, and we have heard calls for the tax to be increased significantly. How far a product can travel will depend on its quality, which will have implications for transport costs. You are correct in so far as, if there is a low differential, it is perhaps unlikely that a low-value product will travel further as a consequence, and there is a greater likelihood that a higher-value product will travel further.

**The Convener:** I think that red gravel stones are one high-value product. Are there other high-value primary aggregates that could be impacted by either lowering or increasing the rate?

**Alan Doak:** A variety of products are produced at quarries, depending on the geology. We should not ignore the fact that, even at a site where higher-value products are produced, lower-value products might need to be removed in order to get to the higher-value products. Those lower-value products might then compete with secondary

recycled materials, so there can be a knock-on effect.

I will touch on something that was referred to earlier. Let us focus on recycled and secondary materials and aggregates. The Scottish Government’s figures suggest that between 87 and 89 per cent of construction demolition waste is already recycled. I would argue that we do not know whether there is potential for the other material to be used, because that research has not been done. Mr Neill referred to bottom ash. That is an example of the quality of a product restricting what can be done, because SEPA has placed restrictions on it. The quality requirements that are stipulated for various projects mean that virgin aggregate cannot always be replaced with secondary or recycled materials. I am trying to get across the point about both volume and quality.

**The Convener:** I think that you have got that point across. We all accept that that is the case in some areas. I do not want to put words in Mr Neill’s mouth, but I think that he said that, as the quality of recycling has improved, the difference between virgin aggregates and recycled material has narrowed and, in some areas, has become marginal. Am I right in saying that, Mr Neill?

**Dougie Neill:** Yes, I agree with that.

**Alan Doak:** We see that in the marketplace at present. For a number of years, even with dry recycling, materials that have been crushed and screened have returned to sites. There has been investment in wash plants, where materials go through a secondary process, so there has been greater use of recovered materials. The point that I am trying to get across is that that flow is happening at present, with the tax at its current rate. That is probably more to do with the landfill tax than it is to do with the aggregates tax.

**The Convener:** Thank you. Incidentally, Gillian Mackay has had to leave to attend a meeting of the Parliamentary Bureau. She gives her apologies.

I have one further question for you, Mr Doak, before I open up the discussion to colleagues round the table. In the first paragraph of your written submission, you say:

“Extraction of ... aggregates in Scotland as in the rest of the UK is well-managed and heavily regulated. The industry has a strong environmental track record”.

I think that we recognise that. However, concerns have been raised about unregulated quarriers and so on. How big a problem or issue is that? Would you like the bill to tackle that?

**Alan Doak:** To jump back a small step, the approach that we took in our engagement on and response to the bill was to ask for the establishment of a technical advisory group, which



was subsequently set up. On the point about a distinctive tax that is potentially different from the UK aggregates levy, we called for greater transparency—if I can put it that way—through the register of sites and how they are monitored and policed. We even took that to the point of suggesting that there is a role beyond the implementation of the tax for a working group with Revenue Scotland to ensure that the system is almost self-policing.

Whatever the rate of tax is, our members are keen to ensure that there is a level playing field across the sector and that it is well enforced to ensure that those who should be paying their tax are paying their tax.

12:00

**The Convener:** I think that we would agree with that. Whether it is £1 or £2 or £3, we want to make sure that everybody is paying it and that your members are not being disadvantaged by paying it while their competitors 10 miles up the road are not regulated or licensed and are undercutting you.

**Alan Doak:** Exactly.

**The Convener:** I will open up the discussion to colleagues round the table.

**John Mason:** On the question of definitions, such as the meaning of “commercial exploitation”, we are sticking closely to the UK rules. Are you all comfortable with that?

**Alan Doak:** Yes.

**Dougie Neill:** Yes.

**Jonathan Sharma:** Yes.

**John Mason:** There was a suggestion from at least some people who wrote to us that the definitions could be wider and that products are being missed and are not being taxed under the current definitions. Does any of you feel that that is the case?

**Dougie Neill:** No. We will not be taxpayers under the bill, so our members chose to answer only a few of the questions that were posed. We have not seen anything, or I cannot recall anything, that should definitely be included in the taxable element of the bill. Therefore, I do not have anything to say on that.

**John Mason:** Mr Doak, you are not all that enthusiastic about the tax, anyway, so I presume that you do not want anything to be added.

**Alan Doak:** The UK aggregates levy—with the exemptions, the reliefs and the process—has been in operation for 20 years, and we have seen a drive towards recycling while it has been in

place. From that point of view, it is business as usual for our members.

**John Mason:** So you are not arguing that a particular product should be taken out or anything like that.

**Alan Doak:** That is right.

**John Mason:** Mr Sharma, COSLA argues that there should be certain exemptions for local authorities.

**Jonathan Sharma:** Yes—I was going to mention a couple of things. One is that we were on the expert group that considered the options for devolving the tax. Those who were round the table certainly understood why we would want the new tax to be stable and not to cause huge disruption initially. However, the discussions involved a range of points, some of which were about the definitions. One issue that I raised was that, where local authorities have to use virgin aggregate for roads maintenance and so on—we have talked about the availability of recycled and secondary aggregates—in many cases that is providing a public benefit, widely speaking.

There is also an issue about other environmental measures that are being undertaken within the circular economy principles and priorities. For instance, if it becomes more expensive for councils to complete active travel projects, more funding will have to come from the Scottish Government. Obviously, a substantial amount of capital investment in active travel is coming from the Scottish Government, even as we speak, and councils are also having to put in their own resource.

I argued that there might be scope to look at not necessarily removing the tax, but having some sort of recognition, if you like, of the reason why primary aggregate is being used.

**John Mason:** Would you go as far as to say that we could have different rates? Say in the Western Isles, if virgin material has to be used, there could be a lower rate whereas, in the central belt, where there is a choice, it should be a higher rate?

**Jonathan Sharma:** There is merit in having discussions on that. Introducing the tax will be the first thing to do. We are already engaging with the Scottish Government and officers, and with other stakeholders. We plan to have a local authority workshop to talk through some of the issues.

**John Mason:** So you have no position yet on whether you want a national rate or local rates.

**Jonathan Sharma:** We do not have a position at this point.

**John Mason:** Fair enough.

I will move on to an issue that I was initially surprised about but that I am perhaps understanding now. I thought that the tax would have been applied at the point of production at the quarry, rather than when the material is put into use. Obviously, it would cause a huge problem with the rest of the UK if we had different systems, but what is the logic of having the tax at the point of use or commercial exploitation, rather than at the source?

**Alan Doak:** As I said, the tax has been in place for 20 years at the point of commercial exploitation. If it was at the point of production, I suspect that that would cause cash flow issues. You would be looking to tax material that is perhaps sitting in the quarry or on the deck and that has not even been sold yet. You would get into a whole debate as to whether materials will go out the gate or not. Lower-quality material might end up being left and used in the restoration of the site, so people would be paying tax on material that has not been exploited.

There are a number of reasons, so I can see why, for 20 years, the tax has been on commercial exploitation, which is basically at the point of sale.

**John Mason:** Has the experience been that any material has gone missing between the point of production and the point of exploitation? I am an accountant, so it seems neater to me to use the point of production, because you know where the quarry is. When something leaves the quarry, that is easy to measure, but goodness knows where it might go for exploitation.

**Alan Doak:** To my knowledge, that has not happened. I do not think that there have been any investigations. Certainly, I am not aware of any investigations by His Majesty's Revenue and Customs on that issue.

**John Mason:** Do you have views on that, Mr Neill?

**Dougie Neill:** I can see why you would ask the question. As I said, we are not taxpayers of the aggregate levy at this time, but I agree with Mr Doak that the taxation at the point of sale is very important, for the reasons that he gave.

**John Mason:** Thank you. I will leave it at that.

**Michael Marra:** I start from the position of wanting to make sure that the tax is as simple as possible for business across the board, and that we should differentiate things as little as possible. However, at the same time, we want to maximise the recycling rate. That is the tension that we are trying to investigate through various questions.

From the evidence so far, it strikes me that the tension is probably in two different areas. One is about expanding the marketplace. That might be done through price competition so that recycled

aggregate is more competitive on price—in essence, it is cheaper because you do not have to pay the tax—or through broadening the use through the classification of aggregates and where they can be used.

I want to push you a bit on what the convener asked about at the start. How much more could we actually achieve? Given both of those variables, how much more is out there for us to try to put in place a policy regime to advance the cause of maximising recycling? Mr Neill said that we are in a lull at the moment but is this an infinite process in that, as long as the price conditions are there, we could just keep finding material? What is realistic when it comes to how much we could push up our recycling rate and get the environmental benefits of that? I will start with Mr Neill.

**Dougie Neill:** I will explain my point that we are in a bit of a lull. Obviously, to recycle material, you need feedstock material. As I said, a significant amount of that goes into landfill at the moment. From my company's perspective, we are currently producing three days a week, so we have an extra 40 per cent capacity to produce more aggregates, but there is not a financial reason to do that.

The market is a bit depressed in terms of the sales that are available, and it is hotly contested. That is not just the recycling market but the primary aggregate market. When fewer sales are available, prices come down and competition increases. From my point of view in the recycling market, there is feedstock available to us. If the financial conditions were right, there is capacity in the system to produce more.

I hope that that answers your question.

**Michael Marra:** So the issue for you is more about demand rather than the supply side of your business.

**Dougie Neill:** Yes.

**Michael Marra:** If the marketplace is there, you will be able to get more supply and you will be able to sell it.

**Dougie Neill:** Yes. There are a couple of points on that. The classification of the waste when it comes to incinerator bottom ash is quite a big topic. There is an issue about SEPA's role and the applications that the material can be used for. We can do more to broaden the scope for using recycled materials, which would help to push on our sustainability and circular economy aspirations.

I mentioned the increasing sophistication of the technology that is being used. Bearing in mind that companies are having to make multimillion-pound investments to achieve that, we need to set the foundation stone for a market that looks first at the

secondary aggregate market before it looks at the primary market.

Just to challenge a little what Mr Sharma said, we are having direct engagement with some local authorities that are not that many miles from where we produce the material but that are taking the view that primary aggregate is not much different, so they will just use that, because they know that it is safe. We are currently trying to open negotiations to say, "Come and see the plant and see the quality that is being produced." I know that the committee has visited a plant.

There is sometimes a stigma attached because, 20 years ago, someone on site said, "That recycled material is not of the quality we would expect." However, things have come on so much. We need to change the perception of the industry that uses the materials while creating new opportunities to drive up that number. I suppose that the new tax is a lever that we can pull to try to do that.

**Michael Marra:** We saw some excellent sand last week.

**Dougie Neill:** I have got that much, I am selling it.

**Michael Marra:** On that visit, we also heard that it is about distance, because much of the carbon impact comes from transport. Mr Sharma, will you respond to that point about the balance between where you source the material versus the kind of material? How is your local authority balancing that in considering its carbon impact?

**Jonathan Sharma:** Obviously, I cannot speak about those specific circumstances, but the feedback that I got last Friday from the environment and economy board members was that councils are actively looking at alternatives. I heard that they are looking at how to make better use of their own building materials, for instance. The message is—this is the point that I made earlier—that, if the tax is coming in, that is one lever but let us not bring it in just as one thing. If that sort of situation is happening, or if there are blockers to do with what councils feel that they can do legally, let us explore that and see where we can go. I think that there is a willingness to do that.

**Michael Marra:** Mr Doak, I want to bring you back to my original question. That was a bit of a segue and we went back and forward, but it was about the capacity or potential. Do you have a sense of the scale of potential growth in the area?

12:15

**Alan Doak:** At the outset of the discussion, I made a point about the lack of research that has been done on the availability of secondary and recycled materials. To repeat, we are using 87 to

89 per cent of construction demolition waste, but there are also secondary materials that we are touching on. However, we do not have full understanding or knowledge of the potential of that material to be used, from both an availability and a quality point of view, as we have touched on.

In Scotland, we produce somewhere between 20 million and 30 million tonnes of aggregate per annum—it can vary depending on the market. The figures that I have seen on construction demolition waste are nowhere near that. The consultation document on the proposed tax suggested that the figure is just over 1 million tonnes. The convener referred to a slightly higher figure, but it is not anywhere near 20 million to 30 million tonnes.

Please do not get the impression that I am suggesting that we should not recycle or should not have the tax. We are looking at the bill from one side, but we do not have the information from the other side, on the availability of alternative materials. That is the point that I am trying to make.

From my perspective, there is 20 million to 30 million tonnes of material, and we have a list of potential objectives for the country as well as the national planning framework. Those include offshore wind and hydro schemes that have a potentially huge demand for aggregate.

To perhaps jump on to one of the other questions, if the bill is designed to minimise or reduce the use of aggregate and the revenue that is derived from it, that seems to me counterintuitive, given the potential future demand for the materials for the economy.

**Michael Marra:** That is useful. It feels like there is a reasonable amount of consensus. The question seems to be more about classification and use cases rather than price point.

On differentiation, there are lots of different products. Some of the virgin aggregates that we are talking about, whether it be red chips or others that are specific to the geology of Scotland, have a greater export value and it is worth shipping them long distances to neighbouring areas. There is an aggregate that we can export that has a higher price or value. Is there any case for saying that we should intervene more directly to protect those export or long-distance markets versus something that is more localised?

I know that that is partly about the price elasticity in transport. However, should we make the differentiation more pronounced? Should we say that Scottish red chip has a high price point and it is something that we can use, but the bill should differentiate between some of those classifications? Putting aside how difficult that would be, do you think there is a case to say that

there should be more direct differentiation in the bill?

**Alan Doak:** Our position has always been that there should be one tax and one tax rate. Even though the consultation was on the possibility of different tax rates within different geographical areas, we see that as being difficult and open to potential exploitation.

**Michael Marra:** My final question is about capital expenditure and capital investment in the user case side of things.

Mr Neill, the facilities and technology that you want to put in would increase quality and assure the marketplace that you have a high-quality product, and it would open up new possibilities, but it will require additional investment from the industry. At the moment, your model for that is that if you can sell more, then you can invest back. It feels to me as though that is not necessarily something that we will do at pace. Is there more of a case for saying that we would be better off with a tax credit against the landfill tax that might be against the residual, unprocessed part of that waste?

The quarry that we visited last week spoke about the significant amount of money that it had to pay to put a residual amount of waste into landfill. I am just wondering whether there is a different mechanism that we could advocate for. It might not necessarily be in the bill, although it could be, but is there a different mechanism that would help you to make that capital investment more quickly?

**Dougie Neill:** That is a good question, but I cannot form a quick answer. The company that I work for recently spent £4.5 million on a new plant, which was, at the time, the largest plant in Europe for recycling materials. The other parts of our business that supported the generation of feedstock allowed us to do more, because our previous plant had a certain capacity per hour to produce aggregates. Therefore, as soon as the pile got so big that it made no sense to bring it to recycling, we just took it to the local landfill tips that could take it. We increased our capacity by putting that investment in, but not all members of SESA have got that level of capital expenditure available to them.

When the market improves and people can see a return on their investment of that kind of money, then anything that will encourage and support investment in the technology should be encouraged, whether that be a credit system or something else. I am not sure if you are suggesting offsetting the aggregate tax or if this is additional to that or what it might be. We are more than happy to engage with whatever that might

look like in order to keep the foot pressed on the gas pedal in this area.

**Michael Marra:** This is just an opportunity to put these things to the Government and ask it what its thinking is about how we can make sure that the acceleration is there. I take on board colleagues' points about my predilection within this issue, but we need to make sure that the system is as simple as possible and that it can be cross-border and clean while thinking about what we can do to accelerate it.

**Michelle Thomson:** I have just one small question, which arguably follows on from those of the convener and Michael Marra. Mr Doak, in your submission, you noted that

"Significant behaviour change is unlikely unless the Scottish Government decides to change the rate drastically, and even then there isn't an obvious supply of alternative materials available."

I know that Mr Marra has been touching on this, but I am still not sure that I have a clear sense of it. Mr Marra made a good point about red chips and aggregate that is specific to Scotland, but I am still not clear on the detail of different aggregate types and what overall potential price increases they could stand, although, as everyone has said, there are no plans for that on the table.

I wonder whether you could help me understand a bit more. As you point out correctly, English producers might be keen to exploit any substantial rate increases in Scotland; we all understand that. However the devil surely must be in the detail. I know that we have danced around the issue a bit with two separate questions, but if you could help me understand a bit more, that would be helpful.

**Alan Doak:** I am not sure whether we are mixing up two points on the issue and whether there is more to go at. I was referring to recycled and secondary aggregates, and the position that we have adopted on taxation is that it should be consistent across all products.

**Michelle Thomson:** You are talking about secondary aggregates. That is what I was misunderstanding.

**Alan Doak:** The point that I was trying to make about not knowing what to go at is the point that I have made a few times now. At the moment, we are looking taxation on primary aggregates and the suggestion that perhaps we increase recycled and secondary aggregates without having that detailed knowledge about what that pot looks like and what it can satisfy with quality, availability and consistency. That is the point about what more we can go at. Does increasing the tax change the pot on a site or the quality and availability?

**Michelle Thomson:** You are correctly introducing another complexity for the bill, but that

is good because that is what we want to tease out. Have we got the data to draw on to arrive at some of these decisions? I am not sure what data your members will routinely gather and submit as part of the existing processes that tease out all the different areas that the Scottish Government will have.

**Alan Doak:** Again, I do not want to give the wrong impression that we are not encouraging recycling. The MPA website gives a list of recycled materials and our estimates of the figures. Our members are heavily involved in recycling as well as virgin aggregate extraction. As I said, as a trade association, we will seek to encourage recycling using the influence of British standards or Transport Scotland. We will try to do that. I am not sure if that answers your question.

**Michelle Thomson:** Maybe it does. I am not trying to get to any slam dunk; I am genuinely trying to understand. You have given me more helpful insight, although I suspect that I have further to go to bottom out some of this stuff. Thank you.

**Alan Doak:** Can I make a slightly different point? Forgive me if I go off at a tangent. One of the things that we are suggesting—although not necessarily in response to the bill—is the establishment of a Scottish minerals forum, which we think will be very useful, particularly in relation to the point that I touched on earlier about the potential demand for aggregates going forward. There is a real need for them, which you will see if you look at the national planning guidance on regulation and how it talks about maintaining land banks for 10 years. We would like to see a strategic thought process beyond 2045 with NPF4.

There is nothing to stop that type of forum including bodies such as Heads of Planning Scotland, the Scottish Collaboration of Transportation Specialists, the Convention of Scottish Local Authorities, the Scottish Environment Protection Agency, and so on. Issues with recycled materials could be brought to the fore and discussed in such a forum to ensure that, as a country, we can look at a circular economy. That links back into the consultations that are out on the circular economy, which we again have made representations on, and that makes similar points.

**Michelle Thomson:** That is helpful. Thank you.

**The Convener:** Mr Sharma, I have a final question for you. You are a member of the expert group, which began in January last year, and has met on five occasions. Which other organisations are on that expert group?

**Jonathan Sharma:** I probably cannot tell you off the top of my head. The group is made up of a range of people from the business community who

work in the area. I can provide a list from the minute of the most recent meeting if that is helpful.

**The Convener:** Do you consider it to be a balanced group that has all points of view?

**Jonathan Sharma:** We were invited on to the group and we obviously take a local government point of view. The group is primarily a consultation entity with a range of stakeholders and it probably does reflect the business community to a significant extent. However, that does not mean that we are not able to get our points across. They have heard some of them previously.

**Alan Doak:** I have a copy of one of the sets of minutes. It includes the Chartered Institute of Taxation, the British Ceramic Confederation, the Mineral Products Association Scotland, the Chartered Institute of Building, SESA, the British Geological Survey, COSLA, British Glass, Transport Scotland, the British Aggregates Association, the Institute of Chartered Accountants, SEPA, Zero Waste Scotland and obviously Revenue Scotland and the Scottish Government. That is a list of who was at that meeting.

**The Convener:** It is therefore fully comprehensive. That was what I wanted to confirm. No wonder you could not remember it off the top of your head, Mr Sharma.

Thank you all for your evidence today. The committee has an open mind, certainly on the bill, so we will see where the evidence that we take in future sessions takes us. The next evidence session is next Tuesday. Thank you for your time.

That ends the committee's deliberations today, so I close the meeting. Thank you all.

*Meeting closed at 12:30.*



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