



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Public Audit Committee

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Session 6



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PUBLIC AUDIT COMMITTEE

3rd Meeting 2025, Session 6

CONVENER

*Richard Leonard (Central Scotland) (Lab)

DEPUTY CONVENER

*Jamie Greene (West Scotland) (Con)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Stuart McMillan (Greenock and Inverclyde) (SNP)

*Graham Simpson (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Gregor Irwin (Scottish Government)

John-Paul Marks (Scottish Government)

Jackie McAllister (Scottish Government)

Alyson Stafford (Scottish Government)

CLERK TO THE COMMITTEE

Katrina Venters

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament Public Audit Committee

Wednesday 22 January 2025

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Richard Leonard): Good morning. I welcome everyone to the third meeting in 2025 of the Public Audit Committee, which is our first meeting in our new regular Wednesday morning slot.

Agenda item 1 is a decision on whether to take agenda items 3 and 4 in private. Do members agree to take those items in private?

Members *indicated agreement.*

Section 22 Report: “The 2023/24 audit of the Scottish Government Consolidated Accounts”

The Convener: Our main agenda item this morning is consideration of the section 22 report, “The 2023-24 audit of the Scottish Government Consolidated Accounts”. I am pleased to welcome four witnesses, who are here to represent the Government. John-Paul Marks is the permanent secretary, and is joined by Gregor Irwin, who is the director general for economy, Jackie McAllister, who is the chief financial officer, and Alyson Stafford, who is the director general of the Scottish exchequer.

We have a wide range of questions to put. Before we get to those, I invite the permanent secretary to make a short opening statement.

John-Paul Marks (Scottish Government): Thank you, convener. Good morning to the committee.

Our annual accounts for 2023-24 received an unqualified audit opinion from Audit Scotland for the 19th year running. I pay tribute to the Auditor General for Scotland and his team. We managed to lay the accounts around a month early, and we recorded a small underspend of 0.5 per cent, which was reported in the final outturn statement. That will be carried forward through the reserve and utilised in full in 2024-25.

I can confirm that the Scottish Government is on track to balance this year’s budget. We have produced a pilot, which consolidates our public sector financial reporting, and we intend to keep developing and improving that by co-operating with Audit Scotland and taking on board this committee’s feedback. My chief financial officer, Jackie McAllister, wrote to the committee about that in October. We are aiming to avoid ScotWind drawdown for recurring expenditure so that it is protected for long-term strategic investments, such as the anchoring of investment in offshore wind development.

To respond to the section 22 report, the fiscal position remains tight, but it has improved following the United Kingdom Government’s autumn budget of 2024. Ministers have confirmed that the medium-term financial strategy will be published in May, along with a fiscal sustainability delivery plan, and the Scottish Government will continue to publish regular public service reform updates. We will be back before the committee—in March, I think—to dig into that in more detail. We have published the multiyear pay policy, and borrowing is to be managed within overall

spending limits, as is transparently set out under the revised fiscal framework.

The strategic commercial assets division is operating well, as intended. Glasgow Prestwick Airport Ltd continues to operate profitably. We have completed the accountable officer value-for-money assessment on vessel 802—the MV Glen Rosa—and confirmed with the new ministers that the previous written authority will continue. We notified the committee of that in December. The MV Glen Sannox entered service in the new year, and we now have a pipeline of procured ferries—four major, seven small—that are due to enter service in the future. Furthermore, we have taken steps to improve transparency on commercial assets, and, last week, Gregor Irwin wrote to the committee to give it the latest update on the transparency review. I have no doubt that we will get on to that subject today.

We have made progress on closing out the use of European structural investment funds. We expect to use in excess of 95 per cent of the revised funding allocation. We have implemented the Oracle system, and the Scottish Government has a strong foundation for the use of shared services in the year ahead, which is important for public service reform. Progress has been made to put the organisation on a sustainable path.

The Scottish Government is consistently responding to our freedom of information requests on time; we are meeting or exceeding the agreed performance targets and are handling higher volumes than ever before. We have taken legislative action to address key strategic risks, which include meeting the emissions reduction targets that are set out in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2024.

Of course, the global pandemic and the inflation shock mean that pressures remain high—across health and social care, in particular—in all four nations, and we await the UK Government's spending review, which will take place in June. The spending review will provide the Scottish Government with multiyear planning assumptions, including for capital, and that will be followed by the Scottish Government's revised infrastructure investment plan.

In the meantime, we have sought to crowd in investment, including through the Scottish National Investment Bank, our enterprise bodies, and consideration of the mutual investment model to complete the A9. In the draft budget for 2025-26 that is currently before the Parliament, infrastructure investment has increased to more than £7 billion.

Finally, Scotland's national performance framework is being reformed, with the aim of

accelerating progress and enabling transformation, and the performance report element of the accounts has also improved.

I will draw out some highlights. We have made progress in reducing the post-Covid courts backlog, which is down 40 per cent from its peak during the pandemic. We are continuing to develop our economy, having secured a record number of foreign direct investment projects in 2023, which was an increase of 12 per cent on the previous year. We have improved social security productivity, which is contributing to lower relative child poverty in Scotland under devolution.

I thank colleagues and partners for their resilience and their collaboration, and I look forward to your questions.

The Convener: Thank you very much indeed, permanent secretary. I will begin by asking you about the transparency review. Could you tell us a bit more about your timescales for reporting on the review and the scope of it? I am a little unclear about the extent to which it is an all-embracing top-to-bottom review of how the Government is working, and the extent to which it is about the strategic commercial assets division, which Mr Irwin referred to in the letter that we received from him on Friday.

John-Paul Marks: My default position is that we should be as transparent to the committee as possible. We welcome the scrutiny, we think that transparency matters, and my encouragement to the teams is that we should always publish if that is feasible.

However, we are talking about assets that have a level of commercial confidence and that are bidding for new business. We are hopeful and encouraging of that activity, of course, whether that be for the shipyard or for Prestwick airport. There is some very sensitive commercial activity under way. That is the trade-off that we are constantly trying to balance. We want to provide maximum transparency for scrutiny—after all, this is public money, and we are talking about novel commercial strategic investments that attract a lot of public interest—but, at the same time, we never want to do anything that disadvantages those organisations in securing new business and attracting new investment.

The transparency review is being led by the strategic commercial assets division. It is designed to address the Parliament's request for a publication scheme relating to the strategic commercial assets. That is the scope of the review; it is not a broader review that covers the whole Government, of the kind that you mentioned in your question.

We have shared information with Audit Scotland and with the clerk and the committee last week,

and we aim to produce a report of findings and recommendations in the first quarter of this year. That is the timescale and the scope.

I have given a strategic view, but I will bring in Gregor Irwin, who is leading on that work, to say a bit more.

Gregor Irwin (Scottish Government): The focus is on strategic commercial assets, but that is within the context of the broader approach that we are taking to transparency across the Government. As you will be aware, we already have a publication scheme for Ferguson Marine (Port Glasgow) Ltd, which includes publishing progress reports, risk registers, ministerial updates, meeting minutes and action logs. Those are published monthly, and we want to extend that scheme to cover the full range of commercial assets.

We are also progressing a number of different workstreams to manage the tension between transparency—the provision of which is our default position—and the importance of preserving commercially sensitive information. That information may be about our relationships with commercial partners, but, fundamentally, it is also about our ability to secure the best possible outcome for the commercial assets, including Ferguson's. As we do that, we need to make sure that we get the balance right, that we progress the work in a systematic way and that we really test the limits of transparency.

We will publish the report on the review before the end of the first quarter of this year, at around Easter time. We will, of course, share that report with the committee in response to your requests.

The letter that I sent last week was essentially intended to point to early outputs of the transparency review, specifically those concerning the analysis and documentation that led to the granting of written authority to progress with Glen Rosa in May last year. We have identified six reports where we think that the balance between commercial sensitivity and transparency has changed with the passage of time. Having done the hard work with partners, including the advisers who produced those reports, we think that we are now in a position to publish the reports in the fullest possible way, although there will still be some redactions. We will also publish the Burntisland Fabrications Ltd evaluation report again. There will be some redactions, but we are trying to go as far as possible to meet the demands for greater transparency—which we fully recognise and support—while protecting commercial sensitivity.

The Convener: The committee welcomes that advance. Whether it meets the standard of transparency that we are looking for will depend

on how much is redacted and how much you are able to share with us. We will see the outcomes in the course of the next few weeks, and I am sure that we will have further conversations with you about that.

I take you back to my initial question. I had an exchange with the First Minister about the transparency review at the Conveners Group in September, in which part of his response was, "Yes, we're learning lessons from the Covid inquiry and so on." Some of our concerns in this area stem from the ferries contracts—not only how those contracts were awarded, but the extent to which we were able to get to the bottom of how they were awarded and who was involved. The committee had concerns about whether proper recording of ministerial meetings took place. There were questions about whether special advisers constituted civil servants and where decisions were made. For example, the decisions to award the contract to Ferguson Marine Engineering Ltd and those on the two loans worth £45 million did not go to the Cabinet.

We thought that the transparency review would go much broader than the strategic commercial assets division. That is also what I took from what the First Minister said in the exchange that I had with him. Could you clarify that?

John-Paul Marks: I can. I recognise the points that you are making because, to an extent, the creation of the strategic commercial assets division and the publication, for transparency, of the investment framework, which the committee and Audit Scotland worked on—we discussed that back in 2022—were intended to address some of those learning points from the past and to improve practice for the future.

As I said in my opening statement, vessel 801 has come into service, and vessel 802 is to come. We have procured four additional major vessels—we look forward to the next one arriving this year—as well as seven additional small vessels as part of the small vessel replacement programme. Ministers will set out the next steps for that shortly.

We have applied all the lessons that you alluded to from the history of how procurements have been governed, managed and transparently scrutinised by this committee, Audit Scotland and others. It is a whole-Government mission, which I have really focused on since I have been in my role.

You mentioned the publication of all the documentation relating to historical decisions; we have done that. There was a concern in 2022 that we were taking too long to respond to freedom of information requests, with colleagues having to wait for months to get the answers. We now consistently respond to more than 95 per cent of

those requests within 20 days, which is the performance target that we agreed with the Scottish Information Commissioner. We have put in place a lot of processes around record keeping and the minuting of meetings.

I worked with Ms Hyslop and the teams involved in the small vessel replacement programme to ensure that procurement for it was done precisely as you would expect it to be done, and we look forward to those seven vessels coming into service in the years ahead.

I agree that the transparency review is related to the commercial assets, but there has been a wider mission over the past few years to learn the lessons from the past and improve the rigour of how we operate.

09:45

The Convener: Thank you for clearing that up; it is helpful to get that on the record.

The committee identified a particular concern. During the course of the ferries inquiry, we uncovered the fact that Caledonian Maritime Assets Ltd had been directed by the minister or ministers to award the contract to Ferguson Marine Engineering Ltd—as it was at the time—but that there is no public record of that. Therefore, one of the recommendations that this committee made was that, in instances in which there is a shareholder authorisation—that is, where the Government is the sole shareholder and overrides the board of a non-departmental public body—that should be a matter of record, just as a written authority is a matter of record. Mr Irwin has recently issued a second written authority on the construction of vessel 802—the Glen Rosa.

We think that there is an equivalence there. If the fact that a minister has overridden the judgment of a civil servant ought to be a matter of public record, the fact that a minister has overridden a judgement by the board of a non-departmental public body should also be recorded, in line with the rules that are set out in the Scottish public finance manual.

John-Paul Marks: As I said, we have tried to ensure that that is the case. I cannot think of any instances in the past few years in which we do not have a robust record of major procurements or decisions. You made a point about Cabinet scrutiny. Every month, we take a report to Cabinet that shows the latest financial position for the whole Government, in which everything is transparently set out.

I think that Gregor Irwin and the team handled the AO assessment on vessel 802 properly, as is required under the SPFM, and Audit Scotland

provided helpful scrutiny of that process. The committee was notified of that before Christmas.

Those are important strategic decisions with major consequences for the public finances and, in the case of ferries, for island communities for years to come. I think that we have got the ferries strategy and plan into better shape, and I hope that the pipeline of ferries that will come into service in the years ahead will bring resilience to the fleet and that the average age of the fleet will be reduced. The important lesson is that we must ensure a regular forward pipeline of replacement ferries to ensure fleet resilience. That will increasingly be the case in the years to come because of the work that we have done.

The Convener: That is not really what I am asking about. I am asking about transparency and what I am suggesting to you is that one of this committee's recommendations was that, where there is a shareholder authorisation or a shareholder override of a board decision, as there was in that case, that should be recorded.

The committee has written to the Deputy First Minister and to the Cabinet Secretary for Transport to seek an assurance that that would be the direction of travel. When we look at the framework agreement for Ferguson Marine (Port Glasgow) Ltd, that is in there. We are simply saying to you that, if it is in there, it should be transferred across to other similar arrangements, so that there is some visibility and transparency and that those interventions by ministers become a matter of routine public record.

John-Paul Marks: Do you want to come in, Gregor?

Gregor Irwin: Yes. That is one of the workstreams in the transparency review. You are right to say that the framework agreement sets out expectations regarding where authorisation will be required. Often, it is in respect of matters that are important but quite mundane. For example, the board of Ferguson Marine will seek authorisation from the cabinet secretary—in this case, the Deputy First Minister—when appointing a non-executive director to the board. Similarly, in certain circumstances, pay agreements require authorisation. Often, it is about the routine operation of the commercial assets—certainly when we are dealing with the strategic commercial assets division.

That is very different in nature from seeking written authority or direction—which involves the accountable officer saying that it is not clear to them that acting in a certain way would be consistent with obligations under the SPFM, and, therefore, they require written authority in order to proceed.

Those are two very different categories of activity. There are still legitimate questions about transparency—and, as I said, as part of the transparency review, we will look at the question of the circumstances under which it is appropriate to share information about authorisations. There might still be commercial sensitivity issues around that; however, written authority and direction are governed by the legislation. They are statutory obligations and there is a very clear framework for them.

John-Paul Marks: Alyson Stafford has—quite rightly—reminded me of a point, which I would like to add, convener. If there is a vulnerability here that we could tighten up, we should try to do so. It might be that, after the transparency review, an adjustment to the SPFM is possible. Ultimately, that will be for the ministers to decide, based on advice.

On your general point, convener, when ministers intervene in a way that is contrary to the view of the board of a non-departmental body or agency, the Parliament should be aware of it. If that intervention involved a concern about affordability, value for money, propriety or regularity, as Gregor Irwin said, the accountable officer should seek a written authority on the basis that the activity does not pass the test under the SPFM.

If it did not hit that threshold, but nonetheless was contrary to the view of the board, there would be a lot of conversation going on between the board and ministers about it. We would be seeking to reconcile those views into an agreed position. However, if an agreement could not be reached and the board was directed to take an action, I see no reason why we could not consider that situation in the next draft of the SPFM, to ensure that a committee such as this one would be notified and have the chance to scrutinise the basis on which the position was agreed.

The Convener: That is a very helpful answer.

The deputy convener has some other questions to put to you.

Jamie Greene (West Scotland) (Con): Good morning, permanent secretary and witnesses.

To start, I would like to look at the macroeconomic state of affairs that is reflected by the consolidated accounts. The consolidated accounts give us a better understanding of the state of the Scottish Government's finances and its three main sources of income. Obviously, the block grant is outside the Scottish Government's control, but the other two sources—that is, borrowing and devolved taxation—are within the control of ministers.

Will you give an overview of whether you are content that the decisions being made in the two areas that are under the Scottish Government's control are being taken in such a way as to maximise the potential income that is available to ministers and therefore translates into their budget spending decisions?

John-Paul Marks: On your last question about whether ministers are seeking to maximise the envelope to deliver the greatest impact in the Scotland, my experience is that they are. In the past three and a bit years, I have seen—and have lived—the desire to maximise the opportunity of devolution to greatest effect. For example, I think that the Scottish Government has done a good job with the devolution of social security. It is a very complex undertaking. The team has managed to build the systems, get them live and ensure that they are accessible and secure. The approach is having a material effect on people's living standards in Scotland, and it is different to that in other parts of the UK. That is the point of devolution.

Those allocative choices on social security spending have been made by ministers and there are more in the budget, and that is a deliberate choice. As you said, the function of choice about the block grant is exercised elsewhere and I hope that the spending review will give us those multiyear assumptions.

Similarly, on income tax, ministers published the tax strategy alongside the budget and it sets out the long-term forecasts on, for example, income tax. You will have seen the decisions that the Government has made in the past three years, particularly as regards progressive taxation and changes to bands to seek to get the revenue that will support things such as social security investment and investment in the public sector in a different social contract in Scotland under devolution than that which we see elsewhere.

On your point about borrowing, I am confident that the choices on resource borrowing are prudent, partly because we can use it only in certain circumstances. The chief finance officer and I discussed that yesterday. Against the limits, it is good. The reserve is well managed to enable us to carry any underspends from one financial year to the next. The Government is making full use of the opportunity of capital borrowing under the revised fiscal framework to invest in infrastructure, and that is enabling and supporting an improvement in the underlying growth rate. Across tax, borrowing and, as you mentioned, the block grant, we are seeking to maximise every inch of the budget, and we have included the performance report in the accounts to set out the activity.

The final point is on spending. Once the block grant is set, the tax assumptions are set and borrowing is planned for, the choices that are left to respond to in-year shocks are choices around in-year spending, and we have had to manage that carefully in the past few years, given the double-digit inflation shock, the post-pandemic removal of consequential funding and other pressures from energy prices as a result of the events in Europe.

We have also done a lot of work on the financial control position to ensure that we balance the budget, as we are required to do by law, and that the underspend has been kept small because we have controlled spending accordingly. We try to do that carefully because we recognise that it means a level of disruption and we want to give people certainty for their programmes and plans for the year as soon as we can.

Jamie Greene: Thank you for that comprehensive answer. There is quite a lot in there, so I will pick out some of the areas that you have just mentioned.

You talked a little bit about spending decisions as a result of further devolution. This committee, other parliamentary committees and Audit Scotland have noted that, with that further devolution, those decisions have a further financial cost to the Government. As we have seen in the analysis of budgets, they are also often made at the expense of other portfolios. For example, the social security spend is rapidly increasing to the point at which it might reach par with the health and social care budget, which is a new phenomenon. However, it is entirely unclear whether the variance in devolved taxation levels in Scotland compared with other parts of the UK is adequately funding the spending policy decisions that ministers are making. Are we therefore looking down the barrel of the supposed black hole that people talk about where spending decisions are uncontrollable and unfundable? Where does the money come from if not from the block grant? Does it come from higher borrowing or higher taxation?

I guess that we are looking for some comfort that those decisions are being looked at in the round.

John-Paul Marks: They are definitely being looked at in the round. Alyson Stafford can say a bit more about the budget process if that would be helpful. However, Ms Robison looks at the totality of the Scottish Government budget and all the elements that you and I have just discussed—I will not rehearse them.

You made the point that the social security budget might get to the point at which it is the same as the health and social care budget. I am

not sure that I agree with that. We are investing £6.9 billion in social security benefits and payments for 2025-26, while we are investing more than £21 billion in health and social care.

You are right to say that social security expenditure will increase in Scotland, but it will also increase across the other nations of the United Kingdom. It is forecast to increase from just over £6 billion to £8.5 billion, but the departmental expenditure limit on the block grant will go from £1.2 billion to £1.5 billion.

10:00

The difference to the block grant because of the choices the Scottish Government makes is material, but, in the context of a budget that is more than £50 billion, my judgment is that it is manageable.

Ministers must make allocative choices at every budget, given all the parameters that we have spoken about—the block grant, income tax, spending choices and social security assumptions—but those assumptions are audited by the Scottish Fiscal Commission and transparently set out. Ministers will publish the medium-term financial strategy in May. Ultimately, choices are made. There are, of course, trade-offs, but one of them—

Jamie Greene: Yes, but those trade-offs are often quite substantial and will come at the expense of the delivery of other worthy public services. For example, capital investments have been frozen, and there have been shifts from the rural affairs, transport and housing budgets to other portfolios where we simply cannot say no to a funding increase. Benefits have to be paid, but we can pause progress on a road project or a hospital renewal. I appreciate that those decisions are made by ministers, but what advice is given to them by the civil service on which portfolios have to be cut to fund increased expenditure in other portfolios?

John-Paul Marks: You were quite right to say that social security is demand led. Once the legislation, policy and programmes are in place and the gateways are open, it is quite hard to make changes in the short term.

In the medium term, there are a lot of choices available to the Government to make different decisions about social security budgets. We have seen that recently with regard to winter fuel payments, and we have seen it over the past decade with regard to welfare reform across the UK.

Ministers have choices to manage the long-term social security forecast. That important debate needs to continue in Scotland, because, as you

said, new benefits have been introduced and different choices have been made. Those are allocative choices.

The First Minister is clear that his top priority is to reduce child poverty. Relative child poverty in Scotland is lower than it would have been without the choices that were made under devolution, but that means that there are trade-offs and choices to be made.

On each portfolio, we always seek to understand the other factors. For example, if we raise the transport budget, we need to understand what the underlying state of the asset is, what enhancement or maintenance is required to deliver the programme or policy and where we can make choices to crowd in additional investment, as we did with the mutual investment model to complete the A9.

We give ministers the option to make choices if they wish. However, I agree with you that, ultimately, the envelope is what it is and ministers need to make choices to balance it. Under the accounts that we have mentioned, that has happened. The same is true of the budget that is before Parliament now. This year, we published a set of artefacts to support scrutiny. Alyson, will you say a bit about physical sustainability and those publications?

Alyson Stafford (Scottish Government): Yes, absolutely. As was mentioned, three elements are involved in funding, and one is the block grant. One key aspect this year will be the UK Government's spending review. That will make a material difference, because the largest proportion of funding that goes into the total envelope that is available to Scotland to deploy comes from the block grant.

The previous medium-term financial strategy, which was produced in 2023, sets out three key pillars on how the Government intended to go about managing the sustainability challenge on an on-going basis during the forthcoming years. The three key elements in it were related to targeting expenditure at the things that were most important to the Government.

The budget that was set out in December has clear designations to the four priorities that were set out by the First Minister. Under each of those, we can see what has been put in for eradicating child poverty, tackling climate change, growing the economy and continuing investment in public services. That was one of the three key pillars in the medium-term financial strategy.

The second pillar was about a focus on economic policies and actions that have the greatest means to grow the economy, and the third pillar was about looking at tax policy. The tax strategy was published alongside the budget; that

is about providing certainty for a period, recognising that the income tax rates and bands that have been set up to this point will now be secured right up until the next election.

Jamie Greene: Ms Stafford, does anyone in the Scottish Government advise ministers on their taxation policy? Does anyone, at any point, undertake an analysis of the revenues that are achieved versus what was expected? How are we faring with that? Is the Government, through variation in taxation bands in Scotland, getting the amount of money in tax that it thought that it would? Are we looking only at tax intake, or are we looking at the bigger picture in terms of wider investment, difficulty in recruiting and all the other economic factors that sit around taxation policy, not just the numbers themselves?

Many people have lauded and applauded the decisions that have been made, and others, particularly in the business community, have criticised those decisions. I am trying to unearth how the civil service goes about advising ministers on the right course of action, or, indeed, how it flags up any areas of taxation that it thinks should perhaps be changed in the future.

Alyson Stafford: Information is provided to ministers from a number of sources. Some of that comes from the Government civil service. Some of it comes from the independent Scottish Fiscal Commission, which was deliberately set up as we acquired more powers in Scotland. All the forecasts for income tax, for example, are derived from the SFC, and they have to be used in the Scottish budget, or ministers have to explain why they have not been. That is the key source of information.

The other point is that we have always made a commitment to evaluating. Tax and tax powers are still relatively new in Scotland. Four studies have taken place so far. Three have been undertaken at the hand of His Majesty's Revenue and Customs, and one was carried out by the Scottish Government. Two of them were undertaken in December 2021, and further studies were reported—and considered at this committee—in April last year.

Studies are done on the impact of tax. The research and analysis that goes into that looks at intra-UK migration; I know that the committee has been interested in that issue previously. On that particular point, it is interesting that, since the introduction of Scottish income tax, more taxpayers have come to Scotland than have left, with the net inflows averaging around 4,200 a year—

Jamie Greene: That is the number of individuals; it does not necessarily equate to higher tax intake in numerical terms. You could be

losing people and have more people coming in, but they are paying less tax than the people that you are losing. What does that analysis look like?

Alyson Stafford: In 2021-22, which is the most recent data available, we saw a net positive inward migration for taxpayers in all bands. There was a short period in which there was, in the higher rate band, some negative movement. However, by the time that we get to the 2021-22 year, all those things have been compensated for by overall growth in all the bands.

That is watched very carefully. As I said, the tax strategy set out that we will be absolutely committed to continuing that evaluation. That data and information is presented to ministers as part of the modelling of the different tax policy preferences. One of the key things that ministers have set out in the tax strategy, and which is also in the budget for 2025-26, is that, in terms of the differential in how many people pay a certain level of tax in Scotland in comparison with England, there are more people paying less tax in Scotland than there are in England.

Jamie Greene: Okay—I have quite a lot of ground to cover, so I will move on.

Permanent secretary, we hear frequently from ministers, in a comment or a statement—it is a matter of record in the *Official Report*—that the Scottish Government needs more borrowing powers. My understanding is that the Scottish Government already has a significant amount of borrowing power. Its outstanding borrowing balance is to the tune of £1.7 billion for capital borrowing and £0.5 billion for resource borrowing, which means that over £2 billion is already on the books. Of course, that amount attracts quite a large amount of interest. I understand that there has already been over £320 million of interest on those two figures combined. In the year 2023-24, borrowing repayments of £217 million were made, which is up from £160 million in the year before.

I am trying to understand where we are at with borrowing, because those sound like pretty hefty figures. Are the levels of borrowing in Scotland sustainable? Are we borrowing enough to fund capital projects, or are we borrowing too much?

John-Paul Marks: The fiscal framework has been revised in order to give the Scottish Government a bit more flexibility on limits and uprate how much it can borrow, which is good progress for Scotland under devolution. I can see that Jackie McAllister has the tables on the sustainability of borrowing in front of her, so she can maybe say a bit more on that.

From a principal accountable officer perspective, I am satisfied that, as a percentage of overall available borrowing, the level of resource borrowing is low and well managed. Given that we

have just come out of a pandemic, a cost of living crisis and inflationary shock, and we are struggling to stimulate economic growth, ministers are, quite reasonably, seeking to maximise capital infrastructure investment. That is what the budget has done, which has been possible because, historically, good choices have been made on borrowing.

By the end of this parliamentary session, something like a quarter of the borrowing headroom—around £1.5 billion—will be available for the next parliamentary session, so it is not as though we will be finishing this session at the top of the debt cap. There is still headroom in place for what comes next, and repayments are scheduled to manage that.

Jamie Greene: What I cannot get my head around is that there is still headroom, which means that ministers have had—and still have—the ability to borrow more if they wish to. In the financial year 2023-24, for example, the Scottish Government borrowed £300 million to support capital projects, which was less than the £450 million that was initially outlined in the budget, so there was significant underborrowing, so to speak. At the same time, there was a mid-year review into capital investment that led to a number of projects not proceeding.

The public will look at that and say, “You have had headroom to borrow cash, yet at the same time there is a freeze on capital investment in much-needed projects—for example, in the national health service or in other infrastructure projects”. The public will not understand why such projects are not going ahead when, at the same time, ministers are not borrowing the cash that is available to them. How do you marry those two things together?

John-Paul Marks: Where it is prudent to do so, we are seeking to maximise borrowing within the annual limits, and we can set that out. I would have to look at some of the paused projects that you are referring to. Some of the pauses may have been due to supply chain issues or capacity constraints. We saw some projects struggling when we came out of the pandemic, in particular, so there were some capital underspends. In my first year, there was a more significant capital underspend in our annual accounts, and we have sought to bring down the levels of underspend since then.

Your point is right—we need to optimise borrowing to deliver maximum impact in our infrastructure delivery plan but we need to do so in a sustainable way so that the headroom has not all been used and is available to hedge against year-on-year capital expenditure movements.

Do you want to say anything on the in-year movement, Jackie?

Jackie McAllister (Scottish Government): I am happy to add a few things.

The permanent secretary's point about the annual limit is quite important. The annual limit on capital borrowing is currently £450 million. It is going to be index linked, so it will increase. At the point of the budget, it is perfectly reasonable to assume that there will be maximum borrowing. As we move through the year, we always want to drive value for money in the overall Scottish Government budget, so we will only borrow the amount that we need to in order to balance our capital outturn.

You mentioned the cost of borrowing ramping up, and we do not want to exacerbate that. There would be no point—in fact, it would not be good value for money—to borrow more than we needed to offset the expenditure that was incurred.

10:15

If we borrowed more than we needed and ended up carrying forward, we have a facility to do that, which is the Scotland reserve, but it is quite modest. It is capped at £700 million, which is just over 1 per cent of the budget. We are operating within quite narrow margins as we move through the year, so those decisions are all made taking into account all those factors.

I would also reinforce the point that capital borrowing and resource borrowing are very different. With resource borrowing, we can only borrow on resource for adverse movements and reconciliations as we move through the year. We can only borrow for very specific reasons, and we cannot borrow on resource to increase our operational spending.

Jamie Greene: My other question is about commercial assets, so I will stop there for now and ask about that later.

The Convener: Stuart McMillan has a quick question on this point before we move on to Colin Beattie.

Stuart McMillan (Greenock and Inverclyde) (SNP): On the headroom aspect that Jamie Greene talked about—I do not disagree with him on that—is it prudent for the Government to operate that way in relation to headroom, bearing in mind the huge economic shocks that not just the Scottish economy but the global economy have gone through in recent years? Who knows what shocks will come in the future?

John-Paul Marks: As Jackie McAllister said, we can only use the headroom for resource borrowing for certain shocks, movements in tax reconciliation

or social security forecasts. The percentage of the debt cap being utilised in 2023-24 was 27 per cent. It rises to 30 per cent in 2024-2025 and then falls over the decade. It is currently forecast to be 17 per cent by 2030-31. There is significant headroom in resource borrowing to cope with in-year movements where resource borrowing might be needed in the future.

On the capital side, it is a different story, for good reason. As Mr Greene was saying, we should leverage in borrowing where it is optimal to do so to drive infrastructure, investment and growth, but the percentage of the debt cap for 2024-25 is 79 per cent, so we still have headroom of £600 million. In future budgets, the scrutiny on that headroom will be important in order to maintain that flexibility for shocks on the capital side. However, as Jackie said, that now uprates, so the available borrowing increases compared with what the previous fiscal forecast enabled us to do.

Alyson, do you want to say anything else on that?

Alyson Stafford: It is not just about the individual year cap, which is the £450 million—uprated for inflation since the fiscal framework review—but the overall cap of £3 billion. If we borrowed the maximum every year, within six or seven years, we would have utilised our full capacity. We would then have a long period before we had repaid some of what we had first borrowed, and Scotland would therefore have less flexibility to deal with particular peaks and troughs. We would be locked in, and we would have to wait for the repayments to go through before we could have more flexibility in what we could deploy by way of capital borrowing.

That is why you will see, when the borrowing choices are made, that there could be different terms depending on the rates. The rates are fixed once the amount has been borrowed, but you have to allow for that stock to change. There is definitely a point to make about the sustainability of capital borrowing, which is that it is advisable for there to be some variation year on year, to be able to keep that headroom.

A borrowing memorandum was published at the same time as the budget, with a commitment to ensure that, on capital, there is that headroom into the next parliamentary session, and to ensure sustainability for Scotland in relation to how that borrowing is managed.

Stuart McMillan: That is helpful—thank you.

The Convener: Colin Beattie has more questions on the management of the finances.

Colin Beattie (Midlothian North and Musselburgh) (SNP): Permanent secretary, to

start with an obvious aspect of the management of the finances, the consolidated accounts show a net expenditure in 2023-24 of £53.98 billion, which is £277 million less than was budgeted, and that is split between the resource budget at £193 million and the capital at £84 million.

What were the main reasons for the underspends?

John-Paul Marks: There are quite a lot of reasons for the movements because they are across portfolios. I think that those are pretty small underspends. I appreciate that the cash numbers are material but, in a £50 billion-plus envelope, landing within an underspend of 0.5 per cent—bearing in mind that we are lawfully required to balance the budget—is pretty tight. Obviously, we cannot have absolute certainty on the final quarter's outturn until it has occurred, but we make sure that we carry forward everything that is underspent.

I have the breakdown by portfolio, and we can go through the portfolios one by one. There are some underspends across health and social care. As I said in relation to that portfolio last quarter, that can happen regularly when boards have made provision for a particular activity and then it turns out to be slightly lower than their forecast. That can drive a small underspend, which might be related to the use of agency workers, overtime or head counts.

Movements in the social justice portfolio are often related to late reconciliations and changes in social security outturns.

We also mentioned demand-led activities. We make assumptions about the spend on an area such as concessionary travel or transport footfall in Transport Scotland, but very small movements there have quite material effects on the accounts.

There are also changes to the provision for student loans and other examples, but they are small movements across each portfolio, and we track them each month. We take that report to Cabinet, so that all the ministers can see how the outturn is progressing against the forecast, and decisions can be made to optimise the budget before we publish the reconciliation in the accounts.

Have I missed any other particular examples, Jackie?

Jackie McAllister: Because of the reasons that the permanent secretary alluded to, we will always underspend to a certain degree, but our audit happens well after the end of the year. We have year-end adjustments that come in after the end of the year. We have to provide for and accommodate them, so there will always be a level of underspend.

The other point that the permanent secretary did not cover is that the accounts are for all our budgets, so the variances are against all the budget types. We have non-cash budgets in there as well, which are about provision movements, re-evaluations, impairments and all those activities that have ring-fenced budgets, which means that we cannot spend that money on something else. The permanent secretary spoke about student loans re-evaluation. There was a significant movement in the cost of managing the student loans calculation and of the valuation of the stock, but we cannot use that underspend on the day-to-day running of the Scottish Government because it is ring fenced.

There will always be such variances. What matters to us is the final outturn, and we still have to come to Parliament on the fiscal framework final outturn for 2023-24 because that is the number that we carry forward through the Scotland reserve. That is the spending power that we carry forward into the future year. What you are seeing within the accounts is just an aggregation of the variances against all those different budget types.

Colin Beattie: Far from trying to balance the budget, it sounds as though you are actually trying to underspend the budget. Do you have a target for an underspend?

John-Paul Marks: We make a provision at year-end for adjustment—year-end flexibility—of £100 million, but we do not have a target for an underspend. As I said, I am delighted because, at 0.5 per cent, my view is that that is about as tight as you would want to get it to, because you would not need too much to happen in the final quarter—

Colin Beattie: I am sorry to interrupt. You said that you keep £100 million, so is that across capital and resource?

John-Paul Marks: I would have to double-check. No, I think that that is just resource, is it not?

Jackie McAllister: Yes, it is resource. Every year, as we get towards the end of the year, we look at the key variables. We have spoken a bit about social security expenditure, and we get forecast information in quarter 4 that helps to inform what we think the level of adjustment or movement might be after 31 March. To be honest, £100 million would probably be at the low end of year-end provision that we would keep year on year, and it might need to be higher than that. In fact, in previous years, it has been higher. In the previous year, it was £150 million. The year before that, we saw movement in social security expenditure of almost £100 million in the summer, after the end of that financial year close. Therefore, we have experience of the volatility in that type of spend. As the permanent secretary

explained, we simply cannot overspend—even by a penny—so we must ensure that, as we go into the year-end, we make sufficient provision for such adjustments.

Colin Beattie: I will move on to a slightly different aspect. The Scottish budget is under considerable financial pressure. Indeed, in August 2024, emergency spending controls were put in place. With regard to sustainability, the Auditor General picked up the fact that a large number of savings are non-recurring and that you are using those to fund recurring expenditure. What is the target to fix that? It is not sustainable in the long term—you cannot keep doing that—so how are you going to deal with that in the future?

John-Paul Marks: Our objective is to fix it with this budget. With regard to the budget that is before Parliament, the First Minister's ambition is to get to a position where it is no longer necessary to have in-year emergency controls. To be clear, I wholly support that plan. It would be good for everybody involved—a voluntary sector organisation awaiting a grant, the no one left behind programme or whatever.

However, as I said, we have faced a series of in-year shocks over the past few years. I will take last year as an example. Up to the UK Government general election, we were operating on a set of spending assumptions that were very different from the ones that we were operating on after the election. Obviously, it is difficult for us to have certainty on the outcome of an election or the choices that a new Chancellor of the Exchequer will make and what that will mean for the block grant.

We are hopeful—well, I am pretty certain—that, in June, the Scottish Government will get multiyear spending assumptions from the spending review. That will provide a level of stability in the forecast expenditure. Mr Greene made the point that that is the major source of income. We have published our multiyear tax forecasts and a multiyear public sector pay policy. Working with the UK Government, the First Minister has put in place a plan—the plan will also draw on the assumptions that the UK Government will provide to us—not just for this year, but, following the medium-term financial strategy in May, for multiple years.

There is a Scottish election coming, but, for this financial year, the expectation is that the budgets that are currently before Parliament, and which you are scrutinising, will then be set for delivery this year. That will negate the need for the emergency budget and the emergency interventions that we have had to use in previous years to cope with the shocks. Post-pandemic, those shocks came from the sudden removal of Covid consequential funding. The next year, they came from double-digit inflation and the impact

that that had on costs, pay deals and fixed budgets. Last year, they came from significant changes in the funding envelope, following the UK election. We are hoping that stability is more baked in than it has been in the past.

10:30

Colin Beattie: That is a good thing, but it still does not explain how you will dig out the non-recurring expenses and replace them with something sustainable.

John-Paul Marks: There are downsides to the controls, which bring in-year disruption, but there are also upsides, because every challenge to every single budget has led us to seek to optimise value for money. In line with the SPFM and the duties that you would expect of us, we are trying to say to ministers that they can do things for marginally less money or that they can make million-pound savings here, here or here. The discipline that we have established for financial management and control has gone into some of those budgets, and the savings brought by adjustments to projects, programmes and investments will recur.

We have also made a significant number of recurring and structural choices about the public finances. Tax is probably the most obvious one because of the enhanced tax band and differential rates, but there are many other changes to fares, rates and income. I can take local government as an example. The tourism levy, the consultation on a general power of competence and the cruise ship levy will give councils the opportunity to raise more revenue to meet demands at the same time as having no freeze on council tax and a real-terms uplift. We are trying to make structural choices that will make local government sustainable for the long term, while always trying to optimise value for money in our spending.

Colin Beattie: That is fine, but the committee has been through an awful lot of reports that show that different arms of the public services, perhaps most notably the NHS, are surviving on non-recurring expenses. That permeates the entire public service. How are you going to tackle that and drill down to the front line to deal with it?

John-Paul Marks: The vast majority of the NHS budget is allocated out to health boards. It funds headcount, drugs, buildings and all the core infrastructure. I am not sure that I totally recognise your description of the NHS surviving on non-recurring expenses, although it is absolutely under extreme pressure from a spike in flu infections, a global pandemic and very high demand. We have put in place a £21 billion uplift for health and social care, and ministers will be making statements about the recovery plan and the investment that

has been put in to try to reduce waiting times. There is innovation in the NHS with things such as hospital at home, digital dermatology and improvements to pathways and capabilities.

Teams are doing what they need to do to balance budgets each year, and that will continue. You make the point that we will have to disrupt the underlying pressure to strategically ensure sustainability. That is the ultimate objective at the heart of the public service reform programme.

Colin Beattie: I think that you are optimistic about the level of non-recurring expenditure in organisations such as the national health service. We have seen report after report from the Auditor General clearly stating that the majority of savings achieved by NHS boards come from non-recurring expenses. That is a huge thing to tackle and I am not hearing how it will happen. What is the initiative that will change that? What is going to transform those boards?

John-Paul Marks: I can talk about the public service reform programme, particularly for health. The underlying challenge in the health service comes from demand. It came out of the pandemic but the risk has been compounded by the impact of double-digit inflation and, most recently, the unprecedented level of flu this winter.

We need, therefore, to accelerate the transformation of health and social care. There will be a statement to Parliament this week on the national care service, and the First Minister is making a speech this month in which he will set out his plan for health and social care recovery. The budget makes significant additional provision in cash terms for waiting-times initiatives to try to reduce that stock of activity in elective care, which has been there since the pandemic across all four nations.

The challenge is about transformation: what can we do to support more people to be seen at home, through the hospital at home and social care at home services and through community care? As the committee will know, there is a whole package of public health reform—minimum unit pricing, action on single-use vapes and the smoke-free generation approach—to try to reduce demand in that respect.

We also need to consider the efficiency and productivity of the NHS itself and try to realise the opportunities from digital transformation. There is the digital front door programme, and I mentioned digital dermatology. The centre for sustainable delivery is always trying to push innovation and reform through our health service. However, I do not want to sound optimistic about the scale of the pressures that you describe, because I recognise that those pressures are significant. This winter,

given the flu spike in particular, they have been unprecedented.

That puts a real premium on a long-term recovery plan. There is a lot going into that already, and the spending review will be material in that regard, because we will need investment to reform social care, given the challenges on the supply side, in order to get the capacity into the systems to meet demand.

Colin Beattie: Do you have a comprehensive understanding of the level of non-recurring savings throughout the public sector?

John-Paul Marks: I think that if we dug into the budgets of each portfolio, we would be able to extract the detail on savings that have been utilised, and on which of those were recurring and which were non-recurring—

Colin Beattie: Have you done that?

John-Paul Marks: Well, portfolios would have looked at that and done their budget returns, and those returns will have had an accounting officer's assurance attached to them regarding sustainability.

Colin Beattie: But if the Government is going to work throughout the public service on reducing non-recurring savings—in other words, on making them recurring in some way, providing a more efficient way of delivering a particular service or however it is done—it will surely need a comprehensive understanding of scale throughout the public sector that needs to be tackled. You also need a task force that can do that and cash resources so that you can put the money up front to implement the innovations and so on that are needed.

John-Paul Marks: Yes, and each portfolio is expected to produce public service reform plans, which are published every six months for the Finance and Public Administration Committee and the Public Audit Committee. Nonetheless, I am happy to take away your challenge on the level of non-recurring expenditure and the dependency on that to balance budgets. I totally agree with you that that has been used, over a series of years in which there has been a set of shocks, to balance the books.

As I said, the First Minister's objective is to remove the need for those controls in order to get to a sustainable pathway. However, to avoid their being needed again in the future, we need to transform the underlying baseline cost of these public service systems.

To take criminal justice as an example, we are, this year, rolling out summary case management, which has been trialled really well in Dundee and tested again in Glasgow. It is enabled by the technology, in which we have invested with Police

Scotland, for body-worn cameras and digital evidence, and it should enable a significant improvement in the productivity and throughput of Scotland's court system. That will reduce the unit costs and ultimately improve the public's experience of the justice system.

Summary case management is a strategic transformation of the underlying cost base and it will improve sustainability. It is being rolled out this year; however, I agree that, in the meantime, those systems are using levers that they need to reduce costs where necessary to balance their budgets. We want to have sustainable road maps for reform in place to reduce, through more tactical intervention, their need to do that.

Colin Beattie: There is clearly a lot of work to be done on that.

The consolidated financial information and the work that is being done to bring it together—although it has taken a long time to get to the point that we are at now—is improving. How is that consolidated information being used by the Scottish Government?

It is not the same information that we have had before. Every year, we get a bit more, and every year, there is a bit of progress. That is fine—it is maybe not as fast as we would like it to be, but it is there. How is the Government using that information? It is not just for benefit of this committee; it has a purpose.

John-Paul Marks: I totally agree. Ultimately, that information needs to add value to decision making, improve scrutiny and transparency, and help us to optimise value for money, as per your previous question. Jackie McAllister has led the work with Audit Scotland and she can maybe talk about the next steps.

Jackie McAllister: The report that we have provided to the committee is a pilot report and it is out more widely for consultation. To go back to your point, Mr Beattie, it seeks to answer the question that the committee and Audit Scotland posed about having more transparency around what Scotland owns and is owed. It seeks to provide a consolidated view of the financial position and the assets and liabilities of all the entities that exist underneath the Scottish budget.

It is important to say that that information already existed—entities and bodies were already producing their own annual accounts. What we have tried to do with the pilot report is to bring that together into one place, so that it is more easily understood and accessible.

Alongside the information about the assets and liabilities, we have also pulled in more information about the Scotland reserve. Over the years, we have fielded questions from the committee about

the Scotland reserve, how it is used and how the money flows through it, and on borrowing—there have been a few questions in this evidence session on borrowing.

The purpose of this report is for the sharing of information to be more transparent by putting it into one report. We would like your feedback on that, particularly regarding some of the questions that I posed in my letter. We want to develop this work over time by looking at trend analysis and maybe deepening the sector analysis.

We recognise that the pilot report does not go into many of the local authority spending classifications, but we would like to do that going forward and, in particular, to explore how we might present some of the borrowing figures, because the format is very different from central Government accounts.

My final point is that we know that the pilot report is focused on numbers and words, so we have been looking at how we could have more graphics and visuals alongside the report. Again, that will become more interesting as we look at trends over time.

We think that the value is in sharing information that is already in the public domain and pulling it together into one place. We would be delighted to receive any feedback that the committee can give us on how we can improve that.

Colin Beattie: I am sure that the committee will be looking at that. However, what I was trying to get at in my question is how the information is helping the Government to see a consolidated picture. There must be some benefit to the planning process. I would also hope that it would assist with fiscal sustainability and so on; there should be all sorts of knock-on benefits. What would be the next big step in enhancing the consolidated accounts?

John-Paul Marks: Reflecting on your previous points on the dependency on non-recurring savings across systems, I will take that challenge away, because I think that it is an important part of transparency in terms of scrutiny and sustainability. It is a fair challenge and we should make sure that those aspects are more visible. Obviously, we have discussed that with Audit Scotland.

As you say, standing back and being clear about the wider system—what is owned and what is owed—should help inform scrutiny of fiscal sustainability.

As we got into in answering Mr Greene's questions, I think that we are feeling confident about things such as resource borrowing, the reserve and in-year control.

10:45

The long-term capital borrowing is sustainable, and we are using up the headroom to drive infrastructure investment growth through the wider system. For example, we are looking at the levels of reserves across councils, to understand their exposure through borrowing levels, so that we can have a confident view of the sustainability in that system, which could be an advantage in the future. The same might be true for health boards as well.

The more that we build that out and get feedback from Audit Scotland and from this committee, the better we can make sure that the pilot scheme adds value in a material way, rather than as an academic accounting exercise that does not improve scrutiny or performance.

Jackie, do you have anything to add to that?

Jackie McAllister: There are big numbers in the report, in the balance sheet and in the assets and liabilities statement. There are big numbers for local authorities; we want to increase the depth that we go into and to provide more information.

The pension liability is probably one of the biggest numbers on the balance sheet. We have already talked to Audit Scotland about providing more narrative at the front end of the document about the pension schemes and liability, to try to make those things more accessible and easier to understand. Another thing is contingent liabilities—there is nothing in the report about contingent liabilities across the piece, and we want to add information about that.

I think that the value of the report, other than that it contains information that is not as readily accessible elsewhere on things such as local authorities, is in seeing how everything fits together. I know that the committee has been interested in, for example, the Scotland reserve. The report includes the fiscal framework's final outturn report, so we can sit the information about the Scotland reserve alongside it. I hope that they make sense to the reader. We would really appreciate feedback on that aspect.

The Convener: Thank you. I note that you have asked the committee six questions. We will endeavour to come up with our answers to your questions at some point. We recognise that, in general, the report is a step forward and we appreciate the opportunity that you have given us to consider it in more detail and come back to you with ideas about where we think there are gaps in it. Local government pension schemes, for example, are not included—that would be a useful area to look at.

I am conscious of the time and I want to move things on. I will do that by way of asking Stuart McMillan to put some questions to you.

Stuart McMillan: The issue of commercial sensitivity has been touched on already—Gregor Irwin highlighted it. The committee is keen to get a bit more clarity on what determines and constitutes commercial sensitivity and how that determination is made.

John-Paul Marks: I will start briefly and then Gregor can say more about that.

At a headline level, we do not want to do anything that will reduce the opportunity of our colleagues—whether in Lochaber, Ferguson Marine, Prestwick or elsewhere—to attract investments, refinance or win new business. Those are the concerns that I have when there is commercially sensitive information. Obviously, Gregor and the team draw on expert legal and commercial advice to inform their judgment of when that is the case. That is why we try to take care: it is not for any reason other than that we simply want to ensure that those organisations, assets and teams are given the best opportunity that they can be given to grow and transform. At Prestwick, great progress is being made and important conversations are being had about that.

However, we need to balance that concern with our obligations under the Public Finance and Accountability (Scotland) Act 2000 and the SPFM. As Gregor referred to, we also want to push the boundary on transparency. That is an important part of growing confidence. At the beginning of the meeting, the convener asked about ferries procurement. We have sought to put confidence back into the system in the way that we operate and procure vessels, while learning from the past. We are trying to do the same with commercial assets. We want to get the committee as much information as we can, but we would hate to do that and then make it more difficult for those assets to improve public value.

Gregor, do you want to say a bit more?

Gregor Irwin: That is absolutely right. We must keep in mind what we are trying to do through each of the interventions. We are trying to protect taxpayer interests. We are also trying to secure a strong and sustainable commercial future for the assets that we have intervened to support. We are also conscious of the economic impact of those interventions; they were absolutely central to our objectives.

That inevitably means that there are decisions that have commercial consequences and are commercially sensitive. For example, if we were to provide a running commentary on a negotiation on a future piece of work for one of the assets, or on some other aspect of that business's strategy, we

would undermine those objectives. We are therefore mindful of the tension between being transparent on one hand and, on the other, doing what needs to be done to meet the objectives of taxpayer interests, and to secure the commercial future and the economic impact of those interventions. I am sure that the committee shares those objectives.

We have done two things through the strategic commercial assets division that are directly relevant here. We have a good framework for when and how we take commercial advice on terms that secure value for money—and we do take legal and commercial advice on such issues. The strategic commercial assets division also has clear processes and frameworks in place that guide the decision making on individual cases.

We want to get into that as part of the transparency review. We want to test whether we got the balance right in the past and consider how we might want to change that balance in the future to make sure that we are managing the potential tension—actual tension, in some cases—between transparency and protecting commercial sensitivity, and that we are doing that in the right way.

The final point is that we need to work with other commercial partners, including providers of advice. Often in those relationships, there are requirements on us to ensure that we protect commercially sensitive information. There can also sometimes be contractual elements to that, and they need handling and managing.

Stuart McMillan: You mentioned the framework and the clear processes that are in place. I am new to the committee, so this question might have been asked at some point in the past. Has that information been presented to the committee in the past?

Gregor Irwin: That is one of the parts of the transparency review. We are just making sure that we have got the balance right, and that work is still on-going.

Stuart McMillan: Will that then come to the committee in due course?

Gregor Irwin: We will share the conclusions of the review with the committee around about Easter time, at the end of the first quarter.

Stuart McMillan: Thank you.

The committee received correspondence last week that said that the information pack on Ferguson Marine will be available by 7 February 2025. I have a strong interest in the success and the future of the yard. How will you ensure that redactions in that information pack are kept to a minimum, so that the critical information that is necessary to assess the effectiveness of funding

decisions for the MV Glen Rosa project is published and can be scrutinised transparently?

Gregor Irwin: I cannot pretend that that is straightforward. It is hard and it requires judgment, but we are trying to make the process as dispassionate as it can be, and to provide as clear as possible parameters to guide decision making, so that we can be confident that we are getting the balance right.

That requires the involvement of a number of parties—for example, the six reports that we will share with you on 7 February have been provided by external providers. That is normally done on the basis of that information not being disclosed in public subsequently, so we have had to make arrangements with them to get permission to do that. We have also had to take legal advice and other forms of professional advice to make sure that we are not doing anything that is problematic from a legal perspective or that could jeopardise information that we might still regard as being commercially sensitive.

The last point to emphasise is that most of that work was done more than 18 months ago. What was commercially sensitive then may no longer be commercially sensitive now, so the passage of time can affect that balance between transparency and protecting information that may have been commercially sensitive at one time. I emphasise that there are no hard and fast rules as to where we draw the line, but we are absolutely determined to manage that tension in a way that does everything that we can to meet our transparency obligations to the Parliament.

Stuart McMillan: That is helpful. I am keen to understand more about the due diligence process for MV Glen Rosa, which resulted in the written authority, which I welcome. I want that vessel to be finished at the yard, and I want the yard to win more work. I refer to paragraph 52 in the Audit Scotland report, which speaks about

“the accompanying value for money assessment”,

which, as indicated in the report, has not yet been updated. Will you give us more information on that, please?

Gregor Irwin: In February last year, the management team at Ferguson’s reported changes in the forecast costs and dates for delivery for both vessels, including Glen Rosa. That represented a material departure from the previous forecast, which requires a new AO assessment to be undertaken. That AO assessment was undertaken in November last year. As a consequence of that, we concluded that there was significant uncertainty regarding the total cost to complete Glen Rosa, so that value-for-money standard could not be met with sufficient confidence. The value-for-money

judgment by that stage was trivial, because the vessel was in effect complete.

In the case of both vessels, we were satisfied that the propriety and regularity standard was met in a manner that was consistent with the SPFM. That led to me writing to the cabinet secretary and Deputy First Minister in December seeking confirmation that the written authority to complete Glen Rosa still applied. That confirmation was provided in December, and the information was shared with this committee and Audit Scotland.

That process took longer than we wanted it to take, and we were very mindful and aware of the comments of Audit Scotland in the section 22 report. There were a number of reasons for that. The update was provided in February 2024, and you may recall that the chief executive left soon after, and an interim chief executive came in. We also had changes in the design team for 802—Glen Rosa—who are absolutely critical in ensuring that the cost projections are as rigorous as they can be.

Our preferred model is to use external advisers to support us in that due diligence to ensure that it is as independent and driven by expert insight into the cost and delivery plans as it possibly can be, and that is what was done in May 2023 when the initial written authority was sought.

11:00

The change in chief executive and the design team, as well as the need to ensure value for money from external due diligence—because the management team and the design team have to interact to ensure that we interrogate the plans in the best possible way—in combination with the imperative of delivering the Glen Sannox in time, meant that, through that period, although we started the due diligence work internally, we could not find the right moment to bring it to a successful conclusion because of all those competing tensions. Therefore, the process took longer than expected.

We saw Audit Scotland's report and we have been in conversation with Audit Scotland. The team has regular catch-ups with it. We came to the conclusion that we had to do the AO assessment in autumn of last year based on the best available information, and it was based on that that we concluded the assessment and reached the conclusion that we did.

A key factor was building in a bigger contingency for uncertainty, because we had not found the right moment for our preferred approach, which is deep interrogation combined with external due diligence.

Stuart McMillan: For clarity, you said that the Glen Rosa is more or less complete, but that does not include the internals; that is the steelwork.

Gregor Irwin: Apologies. The Glen Sannox was more or less complete at that time, so it was trivial. You are quite right that there was still substantial work to be done to complete the Glen Rosa.

Stuart McMillan: What does the value for money assessment process involve?

Gregor Irwin: It involves detailed interrogation of the cost of completion; getting inside every assumption to the extent that that is possible; and testing for optimism bias and for the feasibility of the plans in quite a level of detail. As I said, our preference is that that would be supported by external advisers. That would provide the best possible independent and dispassionate view of the cost to complete the vessel.

Alongside that, we require a counterfactual. The counterfactual that we used originally and that we continue to use is the cost of procurement. Of course, we are not comparing like with like, so the question of the time that it would take to complete the procurement becomes very relevant. Procurement lead-in times are unavoidably quite long to ensure that the processes are undertaken in the right way.

Another part of the assessment is looking not only at the Ferguson Marine forecast for the cost to complete but at the assessment of how long it would take to complete. We are doing a comparison exercise to get the best possible counterfactual. We will build in contingencies where we think that there is uncertainty. That is an important element, but it is about trying to ensure that we have the best possible comparison along those key dimensions.

Stuart McMillan: We are talking about Ferguson Marine at the moment, but I assume that the counterfactual and value for money assessment would be considered for any other project that the Government is working on with regards to the new assets.

Gregor Irwin: Any accountable officer assessment should look at different ways to achieve the same outcome, certainly when it comes to value for money. Inherent in the value-for-money assessment is trying to identify the best way to achieve that objective for the minimum cost, while taking into account risks and other factors. It is always an exercise in looking at the different ways in which something can be done.

Stuart McMillan: Still using the example of Ferguson's, would the counterfactual or the value-for-money assessment include the cost of the yard not being there, all the workforce being unemployed, and the economic impact on and

cost to Port Glasgow and the Inverclyde area? Has that been considered in the past?

Gregor Irwin: That is where we need to be guided by the Treasury green book and the Scottish public finance manual, which lay out clear parameters for making such assessments. Right from the start of the intervention in Ferguson's, ministers have been clear that there are wider economic objectives, such as securing commercial shipbuilding on the Clyde and a good economic outcome for Port Glasgow, and maintaining employment through the yard, both directly and also indirectly through the supply chain. However, we cannot bring some elements of those benefits into what we might call the narrow value-for-money calculation.

When the challenges of satisfying a narrow value-for-money calculation are set out and written authority is sought, given the wider considerations that you have described, including the needs of island communities, which are absolutely central to all this, it is reasonable for ministers' reply to point out the additional time that going down a procurement route would take, as opposed to completing. The Glen Sannox is now in service, and our intention is that the Glen Rosa should enter service as soon as possible. In addition, that might provide a valid justification for wishing to pursue written authority.

Stuart McMillan: Finally, just for clarity on the economic impact, having talked to local businesses in Port Glasgow, and particularly those that open early in the mornings because of the yard, I know that, if the yard was not there, Port Glasgow town centre would be hugely and adversely affected. Shops would shut, more people would lose their jobs, and the economic impact on the town would be great. I grew up in Port Glasgow. I remember what it was like in the 1980s, and I can assure you that I do not want to go back to that situation. People who live in the town or in the wider Inverclyde area would not want that, either. I cannot stress enough that point about the direct and indirect impacts on the economy of the wider town.

John-Paul Marks: I reassure you that the point about the yard's importance that you have just articulated is the same one that we hear clearly from ministers—from the First Minister, Ms Forbes, Ms Hyslop and others.

I have visited the yard a number of times and have met the workforce there. I am looking forward to travelling on the Glen Sannox to Arran later this year, when permitted. I am sure that the Glen Rosa is coming down the track. The yard is making progress on bidding for new work, as you will know, and the work that it has been doing with BAE Systems has been really encouraging.

The importance of the yard, the workforce, the jobs and the wider economic benefits is absolutely understood. That is why the novelty and contention around written authorities needs to be dialled down a little bit. It is quite reasonable for ministers to give us authority to proceed where the counterfactual might be that X minus Y is not value for money on a static basis, but the wider benefits to Scotland, the yard, the workforce and shipbuilding on the Clyde are such that ministers are clear that they wish to proceed.

I think that this process has been done properly in that regard. That is what the committee would expect us to do under the SPFM. Audit Scotland has examined the process and considered that it has been done properly. At the same time, ministers are free and able to provide those authorities where they wish, where there is clearly a priority for the local community.

Gregor Irwin: That is the important point. I draw your attention to the letter that I sent last week regarding the transparency review. You will see that two of the reports that we will share with you and publish concern the economic impact assessment, so they concern precisely the questions that we are addressing.

As part of that, a distinction is made between the direct, indirect and induced impacts. Jackie McAllister can correct me if I am wrong but, if I remember correctly, we are able to include the direct impact in that value-for-money assessment but not the indirect and induced impacts. Those are also very relevant to the impact on Port Glasgow and the economy in the region. We are absolutely mindful of that. Even if it is part of the process of producing a value-for-money calculation as part of an AO assessment, we are unable to incorporate that in the calculation.

John-Paul Marks: However, we can share that with ministers—and, ultimately, the committee—so that they can make that more rounded judgment as they wish, as occurred in this instance.

Stuart McMillan: Thank you. That is helpful.

The Convener: I will move things along and invite Graham Simpson to put some questions to you.

Graham Simpson (Central Scotland) (Con): Mr Marks, you will be very pleased to know that I will not ask you about the purchase of any books this year.

John-Paul Marks: Okay.

Graham Simpson: That is good. We will stick to Ferguson Marine for now, given that it has been the theme of a few questions.

I have a question about the procurement for the small vessel replacement programme, which goes

back to a question that the convener asked. If CMAL, which is the procuring authority, were to advise that another bidder should get the contract but ministers overruled it and the contract went to Ferguson Marine, would the reasoning for that decision be published?

John-Paul Marks: Ultimately, I think that it would be. As you know, Ferguson Marine is one of six companies that have been successful in passing the pre-qualification stage to build seven small vessels for CalMac Ferries. That commercial process has been done properly with all the right approvals, and ministers will set out the next stage of the procurement.

If an alternative approach was taken at the end of the procurement process to award the contract to a company that had, for example, not come top against the criteria that have been set out, I would expect there to be a significant level of challenge and scrutiny from the committee and others. That is why the proper process has been applied. Therefore, ultimately, I think that, if such a decision was taken, it would be made publicly available.

Graham Simpson: Were that to happen, what level of detail should the committee expect to get? I am not saying that it will happen, but if it did happen, what could we expect to be told?

John-Paul Marks: I have not given it a great deal of thought, so forgive me. If we fast forward to a scenario in which we have run a proper commercial procurement process, we have an outcome and ministers wish to change that outcome and take a different decision, the first thing that I would come back to would be the accountable officer assessment against the SPFM, which would be that that was not optimal value for money against the proper process and was, therefore, improper and irregular. We would seek written authority, and that would be published and shared with the committee and Audit Scotland.

The process would be transparent. The level of due diligence would be significant, and TS and CMAL do that due diligence through the proper procurement process.

I have no indication at all that ministers would look to do such a thing. I think that they are content with the commercial procurement process.

Graham Simpson: Mr Irwin referred to the use of external advisers. Are they being employed in relation to that contract? Will you be getting advice from external people when the bids come in?

11:15

John-Paul Marks: Gregor Irwin was referring to the use of external—in particular, forensic—

accounting capability to support the value-for-money assessments on vessel 802. The strategic commercial assets division is a high-quality civil service team, but it draws on expertise for complex commercial work. Gregor Irwin can say a bit more about that.

The commercial process that is being undertaken for the small vessel replacement programme is being led by CMAL, with Transport Scotland as a sponsor, so all the advice that will come to ministers with regard to the next stage and progress with that process will come from those two bodies.

Graham Simpson: Currently, the yard has no confirmed work beyond the Glen Rosa. That is a pretty dire situation, and we all hope that it gets some work. However, if it does not, how much is the Government prepared to continue to put into the yard, or has that not yet been decided?

John-Paul Marks: As I said, the shipyard is pursuing a number of opportunities for future work, including after the completion and delivery of the pilot project with BAE Systems on the type 26 frigate programme.

I mentioned the point about procurement for phase 1 of the SVRP. The yard is involved in a number of other discussions, including on steel fabrication, the building of other ships and so on, and there have been constructive meetings to support that endeavour. It is clear that additional funding goes hand in hand with winning new commercial contracts, and the link with BAE Systems is a positive opportunity.

In the end, ministers have been clear—as Gregor Irwin articulated in response to Mr McMillan—in emphasising their commitment to the yard, to shipbuilding on the Clyde and to the workforce. Ultimately, as one would expect, the team will provide support and scrutiny of its business plan in order to reassure the committee and ministers that additional investment from the Scottish Government provides value for money. That work is under way.

Gregor, do you have anything more to say on that process and the timeframe?

Gregor Irwin: It is important to emphasise that the yard is actively pursuing a number of different opportunities, which are at different stages of maturity. This is one of those circumstances in which, once a contract is signed, we will look forward to an announcement being made, but it is not appropriate to provide a running commentary on the negotiations.

The yard is well supported. We have provided financial support for external advisers to work with the yard on its strategy and business plan to ensure that the investment case is as robust as it

can be. That allows us to ensure that it passes the commercial market operator test and is compliant with subsidy-control rules. Ministers have been very clear that they want to find a way to provide that support, and that needs to be subject to due diligence.

The work on the future pipeline is active and on-going, and there are many dimensions to it. We are also pursuing partnership opportunities with larger yards. That is important because, if it is done in the right way, it will bring additional capabilities that will allow Ferguson's to bid for work for which it would not otherwise be able to bid.

Partnership is an important aspect, and we are pursuing all those strands. We are well aware that, with the success in the Glen Sannox entering service and the focus now being on the Glen Rosa, we need to secure a strong commercial future for the yard. With our partners, and with the yards, we are pursuing that with a great deal of vigour.

Graham Simpson: That is good—it gives me a degree of confidence and hope that the yard can win new work, which is, I think, what everyone wants.

I want to ask about something that came up in last week's committee meeting. We heard that various pay-offs, including some that had not been approved by the Government, were made to staff at the yard. In fact, there was one instance of an employee, who had been transferred to the yard, being paid after he had set up a limited company, which struck me as outrageous. That should not be happening. Mr Irwin, is it fair to say that, as you did not know about that case, you had taken your eye off the ball?

Gregor Irwin: The framework agreement is very clear on what is required and allowed in settlement agreements. Audit Scotland identified two problems with those settlement agreements: they were not transparent to the Ferguson Marine board, and they were not transparent to the Scottish Government. You should be in no doubt that we think that that is unacceptable. The Ferguson Marine board and the Scottish Government share the view that it should not be repeated.

You referred to a specific case of payment being made to a CMAL secondee who had set up a limited liability company. That arrangement was agreed to by David Tydeman, the former chief executive. It was not done with reference to the Ferguson Marine board, and it was certainly not done in a way that was transparent to the Scottish Government or CMAL.

The arrangement was first drawn to our attention after the former CEO left. When the new

chief financial officer and accountable officer at Ferguson Marine became aware of that arrangement, he launched an internal investigation, which reached a number of conclusions, including that the arrangement was not permissible under inland revenue guidance on off-payroll working—the IR35 rule. It had not been done in a way that was consistent with proper governance procedures, and CMAL had not been aware of it.

On that basis, the employment of the individual concerned was terminated with immediate effect. That was—

Graham Simpson: I am sorry but, on that point, is that why the employment was terminated?

Gregor Irwin: That is my understanding.

Graham Simpson: I am talking about the employee who set up the limited company, not Mr Tydeman.

Gregor Irwin: Yes.

Graham Simpson: His sacking was for different reasons.

Gregor Irwin: We became aware of the secondee's arrangement after—

Graham Simpson: After Mr Tydeman had left.

Gregor Irwin: —the previous CEO had left.

Graham Simpson: Okay. Are you embarrassed that you did not know about the arrangement? Processes were not in place somewhere along the line, so it became possible for that to happen.

Gregor Irwin: The board plays a really important role in ensuring oversight and good governance of the yards. The framework agreement sets out our relationship with the board and other parties that are involved in Ferguson Marine.

Ultimately, what happened was that there was an arrangement in place that had been concluded by a very small number of parties. I have done my best to provide an overview of that process, which was, frankly, not transparent to the board or the Scottish Government. As soon as the new CFO became aware of that, he acted, drew it to the attention of the board and initiated the inquiry, which led to the dismissal of the individual concerned.

The new CFO is also the accountable officer. The arrangement that we now have is that there is a division between the chief executive and the accountable officer. That arrangement was not created to protect against that type of situation, but it provides additional protection. The board and the Scottish Government are of the view that there needs to be as much transparency as possible

about such arrangements. The remuneration committee was also not aware of the arrangement, which was completely unacceptable. Action was taken as promptly as possible once the facts were established.

Graham Simpson: Okay. I will move on, because we are really short of time.

I would like you to provide an update on Prestwick airport. The value of the airport seems to have increased. According to the consolidated accounts, it has gone up from £11.6 million to £21.2 million, but the airport has still not been sold. Despite the Government saying that it wants to sell it, and the various expressions of interest over the years, it remains in public hands. However, when we look around, we see other airports in the private sector in Scotland that have been sold. Why has Prestwick airport not been sold? What is the update?

John-Paul Marks: I will give some of the headlines. First, it is a good news story. It would not be right to rush a sale process for the sake of it.

Graham Simpson: Well, you are not doing that.

John-Paul Marks: No, we are not doing that; you cannot accuse us of that.

Glasgow Prestwick Airport accounts from November 2024 show an operating profit of £3.2 million and profit before tax of £1.5 million, which is great. The board continues to diversify its activities and make progress. As you know, direct employment covers 352 jobs, and there is a significant supply chain on top of that.

On the handling of expressions of interest, purchase inquiries are being handled by commercial advisors, which is another example of the Scottish Government appointing experts with commercial capability, and evaluation is led by the Government, as the shareholder and ultimate decision maker. That process is under way. Ministers recognise the importance of Prestwick airport as an infrastructure asset to the local community and to the economy. It is important that the proper process runs in the right way, but those are live considerations.

I do not know whether Greg Irwin can provide more certainty about the precise timeframe, but we expect to see things move forward.

Gregor Irwin: I am confident that we are running a good process, as you would expect. It is not a simple process. It starts with market testing. Prestwick airport is a successful operation. Testing the market requires engaging with a number of potentially interested parties and properly processing expressions of interest in a way that is seen to be fair and open, so that we are not subsequently vulnerable to legal challenge if any

parties think that it has not been done in the right way. That is progressing in an entirely satisfactory way.

I am not concerned about the time that has been taken to get to this point. Ministers have updated the Parliament in the past year, and the cabinet secretary noted in June last year that several expressions of interest have been received.

We are in the process of taking the matter to a logical conclusion, which requires us to secure maximum value for taxpayers as well as a successful commercial future for Prestwick as an operating airport, with the most beneficial impact for the local and regional economy. Due diligence in relation to potential buyers will be required, so that we get that right.

Graham Simpson: You said that there were expressions of interest. Are there still people in the running to buy the airport?

Gregor Irwin: The process is on-going.

Graham Simpson: That is a yes.

Gregor Irwin: Yes.

Graham Simpson: Okay. We will await developments—or not.

Gregor Irwin: I am afraid that this is another area in which I need to be very careful not to give you a running commentary. However, the process is on-going and is being conducted with due regard to the need to conclude it in the right way but also as quickly as possible.

11:30

Graham Simpson: That is fair enough.

You are aware that the committee has had quite a few meetings about the Water Industry Commission for Scotland. The Auditor General mentions it again in his report, which we are looking at today. There was what was described as a “deep dive” by each director general into sponsorship arrangements, because the sponsorship arrangements for WICS clearly broke down, and you could argue that they did not really work with Ferguson Marine, in some respects. Permanent secretary, what was the result of the deep dives, what conclusions have you drawn and can we be confident that we will not see a repeat of that situation?

John-Paul Marks: The main conclusion was that we should undertake an annual risk assessment in relation to the quality and robustness of the governance and sponsorship of all public bodies, and report that to the Cabinet. I discussed and agreed that with ministers. That is the main change.

We have previously discussed in this committee Eleanor Ryan's "Progress Review of Scottish Government Relationships with Public Bodies" and the action plan for improving sponsorship, and we have sought to embed those, to improve sponsorship and to coach that capability. The strategic commercial assets division is an example of that: it has brought in expertise under really good leadership to ensure that we can support very complex commercial arrangements and optimise value for money for the taxpayer.

The committee has carried out a lot of scrutiny of WICS, so we might not want to go into too much detail. However, while I am here, let me be very clear: the failures with regard to WICS were unacceptable. There were a number of unacceptable historical failings in terms of leadership, culture and control. To an extent, the process of scrutiny that Audit Scotland is a part of has worked, in that the section 22 reports have exposed those historical practices and enabled us to make changes to put things right. The interim chair, Ronnie Hinds, is making progress on the change programme at WICS, and we are grateful to him for his leadership. He is a former lead non-executive director of the Scottish Government. Audit Scotland has given us an early indication that the changes are as they need to be, but that there is more to do in order for them to be embedded.

It is important that that is seen through to the point of an assured conclusion. It is also important, for me, the First Minister and the committee that we are able to provide you with an annual assurance that we understand where there might be sponsorship, governance or cultural risks in any public body—small or large—and that we are taking the appropriate steps to address those.

Mr Simpson just referred to the example of Ferguson's, where the Government was not aware of practice on the part of some individuals. Those individuals are no longer in employment at Ferguson's. It is important that we take action and that people learn from those experiences. Those behaviours are not acceptable—they cannot occur. If they do occur, we need to learn rapidly and to ensure they do not happen again.

Graham Simpson: In the Auditor General's report, there is a section on Social Security Scotland that mentions the level of potential fraud. I use the word "potential" because we cannot be certain about the amounts. The Auditor General says:

"The estimated overpayments as a result of fraud and error in the benefits delivered by the DWP"—

that is, on behalf of Social Security Scotland—

"range from 0.4 to 5.2 per cent of expenditure. This means an estimated £42.4 million of overpayments were made in Scotland."

Thankfully, that is down from £60.7 million of overpayments the previous year, but it is still a huge amount, if it is in any way accurate.

First of all, do you accept those figures? If you do, what are we doing about them? I accept that the benefits are being delivered by the Department for Work and Pensions, but those are enormous sums. What are we doing to get those sums down? Can we expect to go on having that level of fraud?

John-Paul Marks: That is the right challenge to make. I recognise the figures and I have discussed them with Social Security Scotland a number of times. I know that there is a good level of transparent engagement between Audit Scotland and Social Security Scotland on this important subject. I am sure that the committee is aware of this, but if not, I used to work at the DWP, and the level of effort that goes into reducing fraud and error is significant. I am sure that the department would be happy to provide more detail, but I can assure you that it is doing a lot, all the time, to try to reduce fraud and error in the benefits system.

The level of fraud and error is a function of many things, including changes of circumstances being underreported, not capturing capital that is in place but not known about by the department, living together fraud and error—LTFE—and other factors. It is right for the committee to scrutinise the matter carefully. The range of the level of fraud and error that you describe sounds right—it is what I would expect to hear, having administered employment and support allowance, income support, jobseekers allowance, universal credit and so on.

The critical thing for Social Security Scotland is to try to learn from the experiences of the DWP to ensure that clients can assure themselves that they are regularly keeping the information on their circumstances up to date. Quite regularly, what happens is that somebody will make a declaration based on their circumstances, then those circumstances change and the department is not aware of that. When the samples are taken to estimate fraud and error, those changes are discovered, and it counts in the estimate of the monetary value of fraud and error—MVFE.

For Social Security Scotland, annual checks, making sure that clients redetermine whether they have moved house, had a child, separated, got married, or whatever it might be, are important parts of the development of the agency and its operating model. It has brought in strong capabilities to do that, but at the minute, in the annual report on accounts for social security, the

qualification relates to the fraud and error figures that are imported from the DWP.

Graham Simpson: Okay. I guess that it could be useful for us to hear from Social Security Scotland in a bit more detail about what it is doing to get those numbers down.

John-Paul Marks: Yes. I think that if you asked the permanent secretary of the DWP or the HMRC—the big departments that administer big payment systems—they would say that fraud and error is a real challenge, not only at the organised end of the spectrum, in terms of organised crime and the like, but right through to accidental errors that are easy to make, in that someone just forgets to alert the department that they have had a child, become separated, got a job, changed circumstances, or inherited some savings, for example. All those things can affect eligibility, which is why real-time information automation and trying to use digital capabilities to spot outliers against the mean are techniques that are used in really advanced fraud and error systems. Social Security Scotland needs to keep on developing those.

The Convener: Permanent secretary, you began this session by welcoming the fact that you had once again got an unqualified audit opinion from the Auditor General on the Scottish Government's consolidated accounts, which took my mind to the GFG Alliance. Its auditors walked out because they wished to put a qualification on the accounts of the GFG Alliance but the owner of that company was not prepared to accept that. Since then, the company's accounts have not been audited. Not only that, but there has been some enforcement action by Companies House and the company is under investigation by the Serious Fraud Office for money laundering, suspected fraud and fraudulent trading. What is the Scottish Government doing about it?

John-Paul Marks: There is a significant amount of engagement with GFG and the Scottish Government on a regular basis to talk about those matters.

In terms of the workforce and the assets in Lochaber, I have visited and met the team, and the hydro is making good returns, which is encouraging. The level of employment is encouraging, including in the supply chain. Obviously, we have a lot of security against the land and the estates, as well as the billet plant.

In relation to GFG, it is not right for me to comment on a live investigation. Our message, consistently, is that it should get to a position of having audited accounts. I reassure the committee that there is regular engagement to support its getting to that more stable position.

The Convener: You sat here exactly 12 months ago and said the same thing. Mr Irwin said:

“the appointment of auditors in the UK is a priority for it.”
—[*Official Report, Public Audit Committee*, 18 January 2024; c 39.]

If that is a “priority”, I would hate to see something that was not. There is a real issue here, is there not? In this year's Scottish consolidated accounts section 22 report, £130 million is the estimate of the exposure of public money. There is public interest in the matter. Why is there not more transparency? Why is more pressure not being brought to bear by the Scottish Government?

The select committee of the House of Commons concluded a couple of years ago that Mr Gupta, who is the sole director,

“fails to fulfil the criteria that we believe should be applied to define a fit and proper person for the purposes of receiving any form of Government support.”

Why do you take a different opinion?

John-Paul Marks: I did not say that I take a different opinion. I think that we are maintaining the level of pressure that you would expect. However, we are not in control of all the events, and we are always seeking to protect the taxpayer, given the financial arrangement.

A set of investigations has been undertaken by other statutory bodies, on which we should not comment, but we regularly put advice to ministers on the balance of risk and the choices that are available to them in order to protect the taxpayer and the workforce in Lochaber. We will continue to do that as carefully as we can.

The Convener: Okay, but the Auditor General told us on 7 November that it

“remains a matter of concern”.—[*Official Report, Public Audit Committee*, 7 November 2024; c 21.]

Again, that is probably putting it mildly.

We are nearly at the end of our time, but the deputy convener has one final question to put to you.

Jamie Greene: I will try to squeeze it all into one. I pre-empt it by saying that, if you do not have the responses to my question, you are welcome to write to me or the committee with the statistics that I am looking for.

First, how many people in the Scottish Government work for the constitutional futures division, and what is the annual cost of that department within the civil service?

Secondly, can you confirm today that all members of staff working within the Scottish Government pay income tax in Scotland? If the answer is that some do not, how many of them are there, and into which pay bands do they fall?

John-Paul Marks: That is a good question. I am confident that all Scottish Government employees pay income tax according to where they are resident, and as they are required to do under HMRC rules. For example, as the committee knows, some Scottish Government colleagues are based in Brussels. I am happy to come back to you on your question on tax, pay bands and the very small number who are located in, for example, Brussels or around the world. However, the vast majority—including myself, for the record—live and pay tax in Scotland, as you would expect.

In terms of the constitutional futures team, I checked that earlier. The last freedom of information publication that we provided in October showed that there was a headcount of 18 in the constitutional futures division. They had been working on the BANS—“Building a New Scotland”—series of papers, among other intergovernmental relations priorities. The total cost of the BANS series, as is set out in the budget, is just over £2 million. The publication costs are just under £16,000 per paper. New ministers have reviewed the programme, and my expectation is that there will be one final concluding paper in the series.

11:45

Post the UK Government election, we are developing the set of arrangements under the new Prime Minister’s council of the nations and regions and in relation to that engagement. We have just hosted the British-Irish Council, for example. That IGR team is engaged on wider priorities, so the level of headcount that is working on the constitution, if you like, is reducing.

We will conclude the BANS series with a final paper, then those colleagues will be working on things such as the programme for government and IGR. Of course, they will also start to turn their attention to preparing for the Scottish election.

Jamie Greene: Given the huge pressures that public finance is under—we have spent two hours talking about them—are you comfortable about the fact that there are civil servants working for you on theoretical white papers—13, I believe, in total? Does that sound like good use of civil service time and taxpayers’ money to you?

John-Paul Marks: The Scottish Government and ministerial team have been elected on a manifesto and a mandate in relation to which they set out their objectives with regard to the constitution. It has always been accepted under devolution that the civil service serves, with impartiality, the Government of the day. Ministers are entitled to set out their strategic ambitions for

the country, Parliament and nation, and how they would like to see the constitution change.

Since I have been permanent secretary, we have seen changes occur, in part because of the work of that team supporting ministers. Such work has been about the fiscal framework review, an exemption on single-use plastics under the United Kingdom Internal Market Act 2020, and how we are engaging on consenting and grid connection to enable ScotWind delivery.

There are short-term value-for-money objectives in the work that those civil servants do, and there are long-term strategic objectives, which ministers have been transparently elected on and have a mandate to deliver on, and the civil service must serve the Government of the day with impartiality.

I have stepped through this very carefully over the years and I have assured myself that the activity is regular and proper, under the Scottish public finance manual.

Jamie Greene made the point about wider budget pressures. The cost of the overall budget of that team and the BANS series was 0.0034 per cent of the total. That is a tiny fraction of what we do, therefore I think that it is appropriate.

Jamie Greene: You think that it is appropriate and impartial. That is your view?

John-Paul Marks: It is important for the civil service to serve the Government of the day with impartiality, and ministers are entitled to seek support for that activity and to be advised accordingly, yes.

Jamie Greene: Understood. Thank you.

The Convener: On that note, I draw this morning’s evidence session to a close.

Permanent secretary, I thank you and the team that you have brought with you, including Jackie McAllister, who has set us some homework—we usually set homework for the witnesses who come before us.

I also thank Gregor Irwin and Alyson Stafford for their time and their contributions this morning—you have given us plenty to think about, so I thank you for that.

Permanent secretary, I think that you are due to come in once more before you move on, so we look forward to seeing you again in a few weeks.

11:48

Meeting continued in private until 12:14.

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