



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE

Wednesday 21 March 2012

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.scottish.parliament.uk or by contacting Public Information on 0131 348 5000

Wednesday 21 March 2012

CONTENTS

	Col.
SUBORDINATE LEGISLATION	811
Scottish Secure Tenancies (Repossession Orders) (Maximum Period) Order 2012 [Draft].....	811
Scottish Secure Tenancies (Proceedings for Possession) (Pre-Action Requirements) Order 2012 [Draft]	811
RAIL FRANCHISE 2014	819
SUBORDINATE LEGISLATION	861
Water Services Charges (Billing and Collection) (Scotland) Order 2012 (SSI 2012/53)	861
A720 Edinburgh City Bypass and M8 (Hermiston Junction) (Speed Limit) Regulations 2012 (SSI 2012/62)	861

INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE
7th Meeting 2012, Session 4

CONVENER

*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP)

COMMITTEE MEMBERS

*Malcolm Chisholm (Edinburgh Northern and Leith) (Lab)
*Alex Johnstone (North East Scotland) (Con)
*Gordon MacDonald (Edinburgh Pentlands) (SNP)
*Margaret McCulloch (Central Scotland) (Lab)
*Aileen McLeod (South Scotland) (SNP)

COMMITTEE SUBSTITUTES

Graeme Pearson (South Scotland) (Lab)
John Scott (Ayr) (Con)
Sandra White (Glasgow Kelvin) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Keith Brown (Minister for Housing and Transport)
Richard Davies (Association of Train Operating Companies)
William Fleming (Scottish Government)
Tom Kennedy (Transport Salaried Staffs Association)
Kevin Lindsay (Associated Society of Locomotive Engineers and Firemen)
Ian Macintyre (National Union of Rail, Maritime and Transport Workers)
Gillian Turner (Scottish Government)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

Committee Room 6

Scottish Parliament

Infrastructure and Capital Investment Committee

Wednesday 21 March 2012

[The Convener *opened the meeting at 10:00*]

Subordinate Legislation

Scottish Secure Tenancies (Repossession Orders) (Maximum Period) Order 2012 [Draft]

Scottish Secure Tenancies (Proceedings for Possession) (Pre-Action Requirements) Order 2012 [Draft]

The Convener (Maureen Watt): Good morning. I welcome everyone to the seventh meeting of the Infrastructure and Capital Investment Committee in 2012. I remind everyone to turn off their mobile phones and BlackBerry as they affect the broadcasting system. No apologies have been received today.

Item 1 is consideration of two instruments of subordinate legislation that are subject to affirmative procedure. I welcome Keith Brown, who is the Minister for Housing and Transport, and his supporting officials from the Scottish Government. They are: Pauline Brice, who is a housing policy manager; William Fleming, who is branch head in the social housing and strategy unit; and Gillian Turner, who is a principal legal officer.

The instruments are laid under affirmative procedure, which means that the Parliament must approve them before the provisions may come into force. Following evidence, the committee will be invited to consider a motion to approve the instruments under items 2 and 3.

Members will note from paper 1 that the Subordinate Legislation Committee has raised several issues in relation to the instruments. I invite the minister to make introductory remarks.

The Minister for Housing and Transport (Keith Brown): The Housing (Scotland) Act 2010 includes provisions to protect, through a series of order-making powers, social tenants who are in rent arrears. Today, we are considering two orders that are subject to affirmative procedure.

The orders are necessary because although the number of evictions for rent arrears in the sector has continued to reduce in recent years, there is still a lack of consistency in practice among social

landlords. As a result, too many tenants are taken to court unnecessarily, which is a very expensive process. In 2010-11, social landlords took 14,600 eviction cases to court, but eviction took place in only 1,800—around 12 per cent. A huge amount of court action ultimately did not result in eviction, which was costly for landlords and the public purse and extremely stressful for tenants and their families.

The affirmative orders that are before the committee today, and two further orders that are subject to negative procedure and which we have laid in the past few days, will help to deal with that problem. In broad terms, they will do so by putting in place arrangements that are equivalent to those that the Home Owner and Debtor Protection (Scotland) Act 2010 established for owner-occupiers who are in arrears with their mortgage payments. The draft Scottish Secure Tenancies (Proceedings for Possession) (Pre-Action Requirements) Order 2012 will introduce a number of steps that landlords will have to follow in all rent-arrears cases, and the draft Scottish Secure Tenancies (Repossession Orders) (Maximum Period) Order 2012 will limit to a maximum of six months the period within which eviction decrees can have effect.

Under the pre-action requirements order, all social landlords will have to follow the same steps before taking a case to court. Those steps include trying to establish whether the tenant needs advice and assistance on housing benefit and making reasonable efforts to agree a plan for payment of arrears with the tenant. In effect, the order will ensure that social landlords are applying consistent good practice in key areas such as early intervention, in order to avoid unnecessary court action. That means that, in practice, all landlords will follow broadly the same approach that a number of the better landlords currently use to avoid cases going to court unnecessarily. For example, the Glasgow Housing Association reviewed its rent-arrears process to focus on an approach that is similar to the pre-action requirements. As a result, it reduced by more than 90 per cent the number of notices warning of possible eviction action that it issued to tenants, and it reduced current tenant arrears by more than £3.35 million between 2007 and 2009.

On the maximum period order, the sheriff must set the period during which it can be used when granting a decree for eviction. The order sets the maximum period as six months from the date that the order is “extracted” or, in plain English, the date that becomes available to the landlord. Usually, a decree is not extracted until after the tenant has had time to consider whether to appeal the decision. The purpose of that period is to provide time for landlords and tenants to try to resolve the outstanding arrears in order to avoid

eviction, wherever possible. That period may be particularly useful for tenants who are, by virtue of their circumstances, unable to or unaware of the need to take legal advice at an earlier stage. The setting of a latest date by which an eviction decree must be implemented will also ensure that the decree cannot be held over a tenant's head indefinitely.

The committee will be aware that the Subordinate Legislation Committee raised a number of points on the draft orders. Some of those relate to matters on which room for interpretation is needed. An example is the legal expenses that a tenant might incur. We have worked closely with practitioners through the evictions working group, the members of which include the Convention of Scottish Local Authorities, the Scottish Federation of Housing Associations and Shelter Scotland, to help us to draft the orders. We have refined the detail of the orders to reflect what the group told us, and we believe that we have reached consensus on the content of the orders. In the light of that, we believe that the group is satisfied in practical terms with what the orders will require. However, we continue to work with the group to develop statutory guidance, which we believe we should use to provide assistance with interpretation of how it is intended that the provisions will be used.

The Subordinate Legislation Committee had a concern about the maximum period order relating to whether a landlord could, by delaying extraction of a court order, extend the maximum period. However, the period of the court order will be set by the court, and the court, rather than the landlord, will control when the court order is to be extracted. If a court delays, or brings forward, the date on which an order is to be extracted, the maximum period will start from that date. The period for which the order can run is for the court to decide. We have reflected carefully on all the points that the Subordinate Legislation Committee raised and we are satisfied that the orders do not need to be further revised.

I apologise for describing the orders in detail; a longer opening statement was required because of the Subordinate Legislation Committee's comments. However, the purpose of the orders is simple: they are to provide added protection for tenants to ensure that eviction for rent arrears is truly a last resort.

I am happy to answer questions. I hope that the committee will be pleased to recommend approval of the orders so that they can come into effect on 1 August 2012.

The Convener: Thank you. I invite comments or questions from members.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I do not share most of the concerns of the Subordinate Legislation Committee, but I take its point about the meaning of the phrase

"an appropriate debt advice agency".

I note that the Scottish Government says that it will clarify that point in guidance, which I hope will deal with the matter. However, my question is on a more general point. Will any of the Subordinate Legislation Committee's other concerns be dealt with in guidance, or is that the only issue that requires attention?

Keith Brown: Guidance is required only in so far as interpretation would make something clearer. My officials might want to comment, but that is the only issue that I am aware of.

William Fleming (Scottish Government): The intention is to go back to the evictions working group to go through the statutory guidance. When we do that, we will pick up the points that the Subordinate Legislation Committee has raised. There are more concerns that need to be clarified, and we will certainly address them in the group.

The question relates to the point that an "advice agency" could be a citizens advice bureau, but could also be one of many other organisations: it simply would not work to try to name all of them in the legislation. We will give illustrations in the guidance.

Malcolm Chisholm: As far as I know, that is the only concern that the Government has said it will address in guidance. It might give reassurance to those who are concerned if you were to indicate which other concerns will be addressed in guidance. Alternatively, do you feel that the other concerns are not substantive?

William Fleming: One of the Subordinate Legislation Committee's other suggestions is that it might be a mistake for the officer who is dealing with the arrears to approach the people who deal with benefits in the council. However, that happens already. The guidance will say that that is a long-standing practice among the better landlords, which will reassure people who are concerned that they should not be doing that. The guidance can make the point that the GHA, and Stirling and Edinburgh housing associations already do that. There is established practice that we are encouraging others to follow.

Margaret McCulloch (Central Scotland) (Lab): We have heard about procedures that councils will have to follow to ensure standardisation so that each council does the same thing to address the problems. Will the Government be issuing a sort of standard procedure manual for the councils to follow to ensure that each council interprets things the

same way and delivers the same interventions to tenants?

Keith Brown: No. We will make the guidance a bit more detailed, but the various steps—finding out whether a person is properly accessing the housing benefit that is available to them and any further assistance that can be given—are fairly widely known by the exemplars that we have just now. Even if a council is not doing that just now, it will be aware of the practice of Edinburgh, Stirling and, in particular, the GHA. There will not be a step-by-step manual.

Alex Johnstone (North East Scotland) (Con): We have touched several times on standardisation of practice. There are a couple of points that argue in two opposite directions, and I would like to hear your thoughts on them. First, given that many of the pre-action requirements are already carried out by housing providers, how will the proposal significantly reduce evictions?

Keith Brown: With regard to the various steps that are to be taken—and which are, as I said before, currently taken by a number of social landlords—if it is possible just now to seek eviction without checking whether the tenant in question is entitled to housing benefit or has even tried to find out whether they are, it is possible for it to happen without knowing whether the tenant has access to legal advice. Evictions will be reduced if we ensure that the tenant is aware of their opportunities in relation to housing benefit—especially now, with the changes that have been made—and if we ensure that reasonable steps have been taken to put in place a repayment plan and so on. As I said, there was a 90 per cent reduction in the number of evictions from the GHA's properties at the same time as there was a substantial reduction in the level of arrears.

Alex Johnstone: I will turn that around and ask you a question that might seem to go the other way entirely. Once the pre-action requirements are in legislation, will you see failure to carry them out to the letter as being an opportunity for a defence against legitimate eviction?

Keith Brown: We are getting close to having to express a legal opinion. Maybe the lawyers—rather than I—should do that. What Alex Johnstone suggests is not my intention. The point of the legislation and the guidance is to ensure that pre-action requirements are fulfilled. Those who can be shown not to have followed them through will be leaving themselves vulnerable.

Perhaps a legal professional could give a better answer to the question.

Gillian Turner (Scottish Government): The minister is correct. The landlord has to confirm to the court that it has complied with each of the steps, and the tenant will receive a notice setting

out what the landlord says it has done to comply with the steps. If the tenant were to say that certain actions that were listed on that notice had not been taken, they could let their lawyer know about that, and the lawyer would be able in court to challenge the competence of the action because the pre-action requirements had not been complied with. It would then be for the court to take a view.

Alex Johnstone: My final question is slightly different and concerns what you said earlier about placing a time limit on an order to evict, once one has been granted. We know that, at the moment, some landlords get an order to evict and use it to put pressure on a tenant to pay their rent. The order will put a limit on that of six months. Is there any danger that landlords who currently use those orders to encourage tenants to pay their rent might be more likely to serve the order and evict the tenant in the future?

Keith Brown: Obviously, the intention of the pre-action requirements is to stop people getting to that stage. However, as Alex Johnstone points out, some will still get to that stage: the pressure that you describe still exists, although the eviction order will be time limited to six months. It seems, in the interests of justice, that a disposal of the court should not hang over someone's head for a long time, with their not knowing when the hammer will fall.

As Alex Johnstone also mentioned, the threat of eviction might be used as a means to try to address an arrears problem. I imagine that that will still be the case, and all that will change is the time period that is allowed. We might find that, in some cases, the pressure will become more acute. At present, a tenant might think, "I'll not bother paying these arrears. Nothing's happened for a couple of months." If they know that the six-month deadline is about to be reached, they will know that the landlord is likely to take action soon. There are different pressures at play, but the main thrust of what we are trying to do is to avoid getting to that situation in the first place.

10:15

Alex Johnstone: At the margins, a bit of brinkmanship will still go on.

Keith Brown: It could do, but we are trying as far as possible to ensure that it is at the margins.

The Convener: The minister said that the Government has consulted the SFHA, Shelter and another body, and Mr Fleming mentioned debt advice agencies. Have you discussed the matter with the likes of Citizens Advice Scotland? Citizens advice bureaux tend to be the first port of call for people who are faced with court orders and possible eviction.

Keith Brown: The other partner was COSLA. Shelter, the SFHA and COSLA have relationships with debt advice agencies, but I do not know whether my officials can confirm the involvement of debt advice organisations in the working group. The issue has certainly been taken into account; indeed, we could not have proceeded without taking it into account. Also, the pre-action requirements come from a body of experience that came particularly from citizens advice bureaux, which have been dealing for a long time with tenants who are in arrears. I ask William Fleming to say more about that.

William Fleming: The full list of members of the working group is the SFHA; COSLA, including the housing specialists within it; the Scottish Court Service; T C Young, which is a firm of solicitors; the Legal Services Agency, which provides a lot of advice to tenant groups as a tenant-focused legal services body; Shelter; the Scottish Housing Regulator; and two tenant representatives from tenant organisations. We have tried to capture, particularly through the advice of the Legal Services Agency, the practices that are involved in giving advice to tenants.

Keith Brown: Within COSLA, the Association of Local Authority Chief Housing Officers is involved. It has a lot of expertise not just in provision but in debt management.

The Convener: You mentioned that the number of court orders is huge compared with the number of evictions. Was the GHA's 90 per cent reduction in the number of court orders or the number of evictions?

Keith Brown: It was in the number of evictions.

The Convener: It obviously uses good practice. Is that being shared with others?

Keith Brown: The pre-action requirements are very much based on the work of the GHA; we pulled it out for that reason. One of the concerns is that, if we take the action that we propose and introduce the pre-action requirements, there might be sensitivity about the ability of landlords to ensure that arrears are addressed.

Just to clarify the figure that I gave in relation to evictions, eviction action was reduced by 90 per cent, with tenants' arrears coming down, so that action—

The Convener: Does "eviction action" mean court orders?

Keith Brown: The number of notices warning of possible eviction that were issued to tenants reduced by 90 per cent.

One of the possible fears about pre-action requirements is that it will be harder to address arrears. I mentioned the GHA example because,

in that case, there was at the same time a substantial reduction in arrears. More active management of people who are in arrears seems to produce dividends both for the tenants, in terms of far fewer costly eviction actions, and because it manages down arrears. That approach is also being taken in Edinburgh, Stirling and elsewhere, and it is enshrined in what we are trying to do with the orders.

The Convener: When you say "eviction action", do you mean court orders or what happens before that?

Keith Brown: I refer to notices of possible eviction that are issued to tenants by landlords, not by a court.

The Convener: As members have no further questions, we move on to agenda item 2. I invite the minister to move motion S4M-02390.

Motion moved,

That the Infrastructure and Capital Investment Committee recommends that the Scottish Secure Tenancies (Proceedings for Possession) (Pre-Action Requirements) Order 2012 [draft] be approved.—[*Keith Brown.*]

Motion agreed to.

The Convener: We will move on to agenda item 3. I invite the minister to move motion S4M-02389.

Motion moved,

That the Infrastructure and Capital Investment Committee recommends that the Scottish Secure Tenancies (Repossession Orders) (Maximum Period) Order 2012 [draft] be approved.—[*Keith Brown.*]

Motion agreed to.

The Convener: I thank the witnesses for their evidence. I briefly suspend the meeting to allow the witnesses to leave and the next set of witnesses to come to the table.

10:20

Meeting suspended.

10:22

On resuming—

Rail Franchise 2014

The Convener: Item 4 is the committee's second evidence session on the Scottish passenger rail franchise, which is due to be renewed in 2014. The committee has begun brief and focused scrutiny of the issues around the renewal of the franchise. We heard at our previous meeting from organisations that represent the interests of rail passengers. The committee will hear from several stakeholders and will consider whether to feed into the "Rail 2014" consultation process. At today's meeting we will hear from transport trade unions, followed by the Association of Train Operating Companies.

I welcome the first panel of witnesses: Kevin Lindsay is the Scottish secretary of the Associated Society of Locomotive Engineers and Firemen, which is commonly known as ASLEF; Ian Macintyre is regional organiser of the National Union of Rail, Maritime and Transport Workers; and Tom Kennedy is senior regional organiser, Scotland, for the Transport Salaried Staffs Association.

I invite members to ask questions.

Malcolm Chisholm: I have a few general questions. I will put the first two together, because I suppose that they are related.

The Scottish Government's position is that all public bodies are prevented by law from directly providing the Scottish passenger rail franchise service. I imagine that some of you would maybe like our public bodies to provide the service. The legislation is fairly circumscribing on that point, but there are exceptions, such as East Coast. Your views on when and if public bodies could provide the franchise service would be interesting.

Related to that is the possibility of the franchise being provided by a co-operative or not-for-profit organisation and how that might work in practice—I imagine that that would not be prevented by the legislation. What are your views on that?

Kevin Lindsay (Associated Society of Locomotive Engineers and Firemen): I am quite happy to answer. We are aware of the Westminster Scotland Act 1998 and we have made representations to other consultations about getting changes to that legislation. We believe that 1998 act is restrictive. The Scottish Parliament controls the budget and how the franchise should be run, and it seems bizarre that it cannot make a decision on whether the railway should be publicly owned and publicly accountable. We find that anomaly strange and we have made representations on it.

The present franchise set-up is quite restrictive because of the costs involved. A co-op approach would be highly unlikely to work, but we would be happy to hear from and meet anyone who had views about taking that route. The not-for-profit question is rather simple. It would depend on whether you could put in place a management contract that stated that the not-for-profit body would run the railway for X, Y or Z, and the rest of the money would be ploughed back into the railway or given to the Scottish taxpayer. There are alternatives. For example, you could run a not-for-dividend company, with the railway not paying out a dividend to its shareholders. The railway is heavily subsidised—the ScotRail franchise is the second most heavily subsidised in the whole UK, just behind Wales—and we welcome that support, but it is wrong that a private company can come in and take a slice of that money out when it should be put back into Scotland's railways. From ASLEF's perspective, the matter seems fairly straightforward.

Tom Kennedy (Transport Salaried Staffs Association): I support everything that Kevin Lindsay says. Whether there should be some model other than one whereby companies come in and make profit out of the railways is the key issue at the centre of our concerns about what is happening in the railways. The McNulty report demonstrated that the railways in the UK as a whole cost 30 to 40 per cent more than they should. As far as we are concerned, that is a result of the fragmentation brought about by rail privatisation. When you consider alternative models a number of difficulties arise, but when you consider the profits that have been taken out of the rail industry since rail privatisation, you can see that it would be worth while for your committee and the Scottish Government to explore alternative mechanisms to deliver the railway system in Scotland.

Ian Macintyre (National Union of Rail, Maritime and Transport Workers): ScotRail paid dividends of £18 million in 2010, £18 million in 2009, £17 million in 2008 and £21 million in 2007. In two of those years, ScotRail paid more in dividends than it made in profit, leading to the obvious conclusion that, as it does not contribute anything towards investment in the railways or rail infrastructure—the level of Government subsidy even covers its track access charges—it is simply milking Scottish railways.

The Scottish Government's proposals in "Rail 2014" allow for the intensification of that theft. If dividends had not been paid in 2010, the RMT estimates that rail fares could have been reduced by almost 7 per cent, which would undoubtedly have improved accessibility. That makes clear the case for public ownership of Scottish railways.

Alex Johnstone: My question is broader. I seem to remember a bit of a stushie a couple of years ago when Stewart Stevenson, as transport minister, approved the franchise extension. The deal that was done at that time indicated that a substantial part of the additional profit being made by ScotRail would be ploughed back into the business. Surely if there was no profit, no money would have been ploughed back into the business.

Kevin Lindsay: I cannot answer whether that was a good deal for the Scottish Government or not. I cannot answer whether the money was ploughed back in—that is not something that would be put out publicly. At the time, we were concerned that the announcement was made to the stock exchange before it was announced to Parliament or the stakeholders in the industry. We thought that that was wrong. We also had an issue about whether ScotRail was going to put its profits back in. We had no evidence of that happening at the time. There was a trade-off for additional services and for ScotRail getting a longer franchise again. I am unsure what additional services the Scottish taxpayer got.

The Convener: May I clarify whether we are talking about FirstGroup's profits or whether the profits are broken down to show those of First ScotRail?

Kevin Lindsay: I mean First ScotRail.

Malcolm Chisholm: How long do you think that the new franchise should last and why?

Kevin Lindsay: If it was a private franchise, I would say a week—that is me being generous. We do not have an opinion on how long a private franchise should last and it would be wrong of us to speculate.

Malcolm Chisholm: Does anyone else have a comment, or are the witnesses of one mind?

Tom Kennedy: When we have met the minister, the TSSA has expressed the view that a shorter franchise would be more beneficial than a longer franchise.

One issue on which the committee asked us to comment was that of improving rolling stock.

The Convener: We will come to that later.

Tom Kennedy: That is fine.

Ian Macintyre: If there must be a franchise, we suggest that it should last no more than five years.

10:30

The Convener: On what basis?

Ian Macintyre: That would keep the competitiveness in the tendering process, if it must be used.

Tom Kennedy: Another factor that speaks for having a period of five years is that the rolling stock will enter a critical period in 2019, five years after 2014.

The Convener: We will come to that.

Malcolm Chisholm: One of the more controversial suggestions is the idea of specifying different service levels for economically viable and socially necessary routes—minimum specifications would be made for economically viable routes and more would be specified for other routes. We would appreciate your views on that.

Ian Macintyre: The RMT totally opposes that idea, because it would create a two-tier railway system and lessen part of the railway service that is provided at the moment. One part of the railway would be dealt with through profit margins and would get the best rolling stock, to the detriment of the other part. Creating a two-tier railway would not be in the public's interests.

Tom Kennedy: The TSSA's view is the same as that of the RMT. The danger is that having two measures for evaluating the railway system in Scotland could mean a break-up and could lead to operators cherry picking railway services. The profits that could be made from parts of the passenger railway system would go to private operators and the taxpayer would be left to support the social services, which would not be profitable. Overall performance in the passenger railway is best delivered by looking at the railway system as an economic benefit as a whole and not by segregating it into profitable and non-profitable segments.

Kevin Lindsay: I support my colleagues' comments.

Malcolm Chisholm: My next questions are general, but the subject might be discussed more specifically later. What level of detail should be set out in the franchise contract? What impact does that have on staff and service provision? Whether all fares should be regulated is an obvious issue, but lots of other details could be specified.

Kevin Lindsay: We are happy to have a minimum service requirement, but we are always wary about incentives to run more trains if just a minimum service is set. You asked about dividing the railway into economic and social services. Our concern is that economic, rather than social, trains would be run, whereas we believe that the railway should be for all.

Having a minimum service requirement guarantees a level of service, but that might not be the service that a community requires. If trains or buses do not link up with one another and only one person gets on the train, but they need that

train to get to work, that becomes an economic issue for them and a social responsibility issue for the community.

Such challenges would be faced in the franchise. Writing those matters into the contract for the whole of Scotland would be a mammoth challenge and might be difficult.

Tom Kennedy: The proposal of minimum service levels in the “Rail 2014” consultation must be looked at in the wider framework that could emerge from the consultation. Control of and decisions about passenger services could be handed over mainly to franchisees—if a number of franchisees emerge. That would not benefit the system as a whole.

The danger with introducing the minimum service level provision is that it would encourage the private operator who takes over to run only the services that were profitable, and they would be reluctant to run any services that did not prove to be profitable. That would mean that you would be enabling the franchisee to determine rail services based on profitability. In the general economic context, that would not be desirable.

Ian Macintyre: I concur with my two colleagues and do not have much more to add.

Malcolm Chisholm: Okay. There is a lot of agreement on many of the issues.

My next question is addressed specifically to the RMT, although the other witnesses may wish to comment. In its written evidence, the RMT expresses strong views against the inclusion of an indemnification clause in the franchise agreement. I have heard those views expressed orally in various contexts recently. I ask Ian Macintyre to elaborate on them and to explain what the consequences of such a clause—of which I think that there has been one already—have been or could be.

Ian Macintyre: One of the main problems arises if we get into industrial disputes—even if agreements are in place. We have consistently argued for the indemnification clause to be removed from the franchise and are disappointed that that move is not included in the consultation.

A question regarding indemnification was asked in the Westminster Parliament by Jeremy Corbyn. In his answer, David Jamieson said:

“In the past year, the Strategic Rail Authority (SRA) has made payments of £12.65 million to National Express in respect of revenue loss by ScotRail arising from industrial action.”—[*Official Report, House of Commons*, 15 May 2003; Vol 405, c 340W]

There was no incentive for the company to resolve the dispute while it was getting paid through the indemnification clause. The clause does not serve the taxpayer one iota or help to resolve problems

with the running of the railways. The last thing that we want to do is get into disputes, but it does not assist us in any way if a company knows that it will get funded.

I give the example of the dispute that we were in recently with ScotRail on the extension of driver-only operation on the Bathgate line, to which we were totally opposed. Part of the argument that we prosecuted involved Lord Cullen’s recommendation regarding the evacuation of trains. We argued for the operational role of a guard on all trains and no further extension of driver-only operation. We believed that we had an agreement with ScotRail about that but, because it knows that the indemnification clause exists, it was less willing to come to the table and stick to the agreement.

I do not know what the cost of that dispute was yet—it will come out sometime in the future. However, we know that the cost in 2003 was £12.65 million, and the cost of the more recent dispute could be similar.

The indemnification clause does not assist industrial relations or help companies to sit down and negotiate properly with the trade unions. We, our affiliates and the Scottish Trades Union Congress have consistently argued for its removal so that we can get on with the business of running railways.

Malcolm Chisholm: I understand what you say and agree with you. Have all the franchises throughout the UK always had such clauses?

Ian Macintyre: The only one that I am aware of is the clause in Scotland.

Tom Kennedy: The TSSA supports what the RMT put in its written submission regarding the indemnification clause. We do not think that the Scottish taxpayer would want to support employers to break agreements with trade unions—that is what has caused the disputes that have arisen. It is important to understand that it is not a proper use of taxpayers’ money to indemnify an employer against the costs of a strike if the employer takes it upon itself to break an agreement that had been reached with the trade unions.

Kevin Lindsay: We were involved in a dispute in 2002 with National Express, which was the franchise holder at the time. It got £12.65 million because of the indemnification clause, but that was the only year in which it recorded a profit during its time as the franchise holder, which in itself tells a story.

We have already mentioned the level of subsidy that ScotRail gets, which is a huge part of the Scottish Government’s budget. It seems bizarre that you will underwrite the actions of a franchise

holder. None of us wants to be involved in industrial disputes—industrial action is always taken as a last resort—but they provide an incentive for the employer to come back to the table to negotiate a fair settlement. However, the franchise holder in this case can hold out and say “We’re still getting money from the Scottish Government, so we are not making a loss.” It seems an anomaly that the Scottish Government underwrites the actions of a private company. When our members go on strike they lose money for the day, so it is not something that anyone wants to do. It seems bizarre that shareholders are protected but workers are not.

Malcolm Chisholm: Okay. Thank you.

The Convener: Mr Macintyre said that as far as he knew only the ScotRail franchise has an indemnification clause and that that does not apply to any other franchise. Are you aware of how the inclusion of the clause came about? Was it because of bad negotiation when the first franchise was set up? Was the franchise badly drafted?

Kevin Lindsay: My understanding is that the clause is in all the franchises. I concur with the suggestion that it is badly drafted.

The Convener: Is it possible to take the clause out? Would that cause lots of problems? Would it mean that fewer companies would be willing to bid for the franchise?

Tom Kennedy: I suppose that it would be possible to take the clause out if the other party to the contract agreed that such a clause should not be in it.

Ian Macintyre: It has been suggested to us by parliamentarians in this building in various discussions at various committee meetings that it could be written out of the franchise. That is our understanding.

I am not sure about what Kevin Lindsay said. We seem to be a wee bit at odds about whether it was just because of the devolved Parliament that the clause was written into the ScotRail franchise. I am not 100 per cent sure about that.

The Convener: We need to get clarification on that.

Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): I want to reprise the position. How far back does the particular form of franchise and contract with an indemnification clause go?

Kevin Lindsay: It goes back to the start of privatisation. I said that I thought that it was in all the franchises because the question was raised in the Westminster Parliament by Jeremy Corbyn, who I think represents Islington. I suspect that he would not have a great interest in the ScotRail

franchise, but he may have an issue with an employer being indemnified in the way in question.

Ian Macintyre: Mr Ingram’s question applies particularly to the ScotRail franchise in 2003 and to the amount that was paid because of the indemnification clause at that time, which was £12.65 million.

Adam Ingram: We obviously have to go back and check out the position and whether we have powers to remove the clause.

The Convener: Okay. We will move on to the issues of reliability, performance and service quality.

Margaret McCulloch: Train performance is measured through the public performance measure, which looks at the percentage of trains arriving on time. There is also the service quality incentive regime—SQUIRE—and the franchisee is incentivised to exceed the SQUIRE targets through bonuses for good performance and fines for poor performance. Do the current PPM and SQUIRE regimes lead staff to focus on meeting targets rather than on customer needs? If so, how could that be changed?

Ian Macintyre: I do not think that the SQUIRE regime was intended to be used as a vehicle for disciplining staff, which is what has arisen from the regime. The initial discussions about SQUIRE were all about penalties and improving the service. It was never intimated to us that a disciplinary procedure would come out of it. We are obviously opposed to the SQUIRE regime being used as a vehicle for disciplining staff.

There is merit in the SQUIRE regime covering the tidiness of stations and trains and so on. We agree that there should be penalties to ensure that a railway is run properly, but that should not be to the detriment of the staff.

We have a problem with the regime, so we are currently monitoring it and seeking feedback from our staff. From that feedback, it seems that implementation is a moveable feast. If health and safety issues arise rather than just small matters, we will seek the imposition of severe penalties on the franchisee.

10:45

Margaret McCulloch: The staff are responsible for ensuring that the railway stations, the carriages and so on are kept clean and tidy and meet the required standard. How can the regime be implemented if staff are penalised for not achieving those standards? Is the franchisee penalised? How would you implement that change?

Tom Kennedy: The SQUIRE regime exists to provide good customer service across a whole range of services. We improve customer service by managing people well and motivating them. We do that by treating them well and ensuring that they know how to do their job, are properly trained and have all the equipment that they need.

In general, the SQUIRE regime is intended to support that system. There are times when the regime falls down, and it can be—for want of a better word—abused, but on the whole it is part of an overall system that has delivered quite high scores for the First ScotRail passenger franchise as rated by the general public.

We do not necessarily say that the regime is a bad thing: it is a good thing, but like any good tool there can be problems if it is not used properly. In our view the regime is an insurance policy that enables First ScotRail to deliver the level of service that customers see when they get on the train.

Kevin Lindsay: On train performance and lateness, it is quite tough for us to suggest how we might change things. One glaring thing that stands out is the relationship between Network Rail and the franchisee or train operator. Fragmentation exists, which causes a lot of problems.

I know that Network Rail and ScotRail are taking steps towards joined-up thinking about how they manage delays, and the minister has led some work on severe weather. However, it seems to us that the two control centres do not work together.

There is also the anomaly that a train is not late if it is less than five minutes late. If passengers are catching a connecting service or have to get to work, they do not accept that: if a train is late, it is late. If a train is five minutes late the driver has to fill in a report, but if it is only four minutes late that does not count against ScotRail. That anomaly must be considered, but it would presumably be for other people to decide on the measurements that are put in place.

Margaret McCulloch: In relation to the SQUIRE regime, you are talking about rewarding positive performance rather than penalising staff.

Ian Macintyre: That is one element. The other issue is that the requirement that there should be two employees on a train could be written into the franchise. During the dispute that I mentioned earlier, we flagged that up on a number of occasions. When we looked into the situation, we were a bit surprised at the number of trains that were running with only a driver. Those are driver-only services, but the trains are geared for two people.

Part of the Strathclyde manning agreement involved an assurance that there would always be

two people on the trains. That seems to have gone to the wall, and trains are running without a second person on them. We are concerned about safety in the event of a train evacuation. That has not been written into the franchise, and the SQUIRE regime does not seem to pick up on it.

Margaret McCulloch: We are talking about customer service, improving performance and the franchise. What changes to the franchise would allow rail staff to maximise the opportunity to improve service performance and customer service, for example by improving staff training and availability, as suggested by some passenger groups?

Tom Kennedy: On the whole, our experience is that ScotRail staff are well trained and well supported, that they know what their job is and how to do it, and that they do it quite well. Whenever a person travels on a railway in Scotland, they cannot escape the generally high standards, which stare them in the face. That does not happen by accident.

Kevin Lindsay: Obviously, staffing numbers always cause concern. A great number of new services have come in over the past few years, but I am not convinced that that has been reflected in the same number of staff being employed. We work longer shifts on the railways, and we now work more flexible shifts than ever. As a result, fatigue probably plays a part. We all have bad days. If you are still here at 6 o'clock tonight asking folk questions, I dare say that your minds will not be quite as sharp as they were at the start of the day. There are issues to do with fatigue.

We have worked with ScotRail on Scottish vocational qualifications for staff. The issue is getting the company to roll them out across the board. As members can imagine, we are quite defensive of the fact that the staff are well trained and provide a good service, but we sometimes think that there are not enough of them.

Ian Macintyre: A survey of the public that has been done shows that ScotRail's standards of quality and everything else have gone up. I will supply that survey if I can get it.

Margaret McCulloch: I pointed that out this morning.

Ian Macintyre: I will get the survey and send it to the committee.

Margaret McCulloch: I have been to see ScotRail and have met its apprentices and spoken to other staff who have been trained. I compliment it on its first-class training.

Adam Ingram: Last week, we had passenger groups in. They broadly welcome SQUIRE, but perhaps it focuses more on specific targets on picking up sweetie papers and crisp packets in

railway stations, for example, than on meeting the needs of customers—the people who use the rail service. One of our witnesses was from a disabled group. Are you satisfied that your members get sufficient training to meet the needs of groups of customers such as the disabled and that enough is being done to include such people in the services that you provide?

Ian Macintyre: A scheme was introduced in ScotRail a number of years ago—I do not know whether National Express was involved. Disabled people were invited to come in and meet staff, and we did various things with ramps. Obviously, handling people could do more damage than good, and we were concerned about that. Disabled people went to briefings to give staff their views so that they could relate to them. Obviously, that is one initiative that could be taken up again.

Kevin Lindsay: Train drivers have no training at all in dealing with disabled passengers, which I find a bit bizarre, as they are part of the ScotRail workforce.

As a union, we have met the STUC disabled workers committee and heard its views. Strange things happen. Every time ScotRail gets a new train, it puts a different texture on the handle of the toilet door and moves the button for closing the toilet door. Such things seem fairly straightforward, so why can they not be standardised? Can that be written into a new franchise? If that happened we would be inclusive: when people stepped on to a train, they would know how to lock the toilet door and where the doors were to get off. Conductors can be heard making safety announcements, but there is never anything in Braille on the doors, for example. The railway does not necessarily cater for disabled travellers, and that should be taken care of.

Adam Ingram: Does Tom Kennedy have any thoughts on that?

Tom Kennedy: I believe that, as part of the ScotRail franchise commitment, specific resources have to be provided for disabled passengers. Kevin Lindsay is right that things are probably not perfect yet. There is certainly room for improvement. Even with the introduction of closed-circuit television and an extensive network of call points, it is probably still a mixed bag.

There have been no complaints from my members about not having had specific training on dealing with disabled people. A lot of our members are front-line staff who work in ticket offices, and I have not received any specific complaints.

Ian Macintyre: There has been quite a big improvement in the provision of ramps. Each train now has a ramp on it, which was not the case previously. In addition, there is communication with the stations where disabled passengers need

assistance getting on or off the train. The situation has improved slightly, but the process has not stopped. If any further improvements needed to be made, we would look at that.

Tom Kennedy: I should make the point that our members who work for ScotRail and who are disabled are well treated. Managers quite often ensure that reasonable adjustments are made. A lot of work goes into supporting people who are disabled and who work on the rail network.

Ian Macintyre: I may touch on the issue later, when we discuss through trains.

The Convener: We will move on to ask about train services, fares and stations.

Alex Johnstone: On this committee, we often find ourselves drawing comparisons with rail services in other countries. Over the past few years, I have travelled on trains in countries as far apart as Norway and Italy. What characterises such journeys is that you can often buy a ticket, travel on the train and get off the train and never see another human being, other than your fellow passengers. With that in mind, what are your views on the staffing levels that are required on passenger rail services and at railway stations in Scotland?

Ian Macintyre: I know that some of the regimes that you are talking about have penalties for people who do not have a ticket. I cannot think what it would be like in the west of Scotland if we gave people the opportunity to travel for free. We had enough trouble with the open-station concept regarding linkages and the cost to the various companies, as a result of which gates and so on were introduced. There is an effect on the revenue at intermediate stations and so forth.

Kevin Lindsay: We believe that there needs to be more than one person on a train. There has to be a driver, of course, but there should be a second person on the train, not just for revenue protection but for passenger protection. Especially late at night or early in the morning, people like to see a second person on the train, simply for their own wellbeing. It makes them feel a bit safer when they are travelling; it is not just about the fare box. That is why we believe that there should be two people on every train. That should be written into the franchise. One of the clauses uses the word “should”. I would change “should” to “must”, because a safe railway is not just about there being no incidents on the operating side of things; a safe railway must be about passenger safety as well. I would say that a vital part of that is having a second person on the train.

Tom Kennedy: I will deal with the situation on the platform, which is also part of the issue. In terms of the ratios of staff in ScotRail, the overall balance of staff working on the platforms is just

about right. Last week, the committee heard from the organisations that represent the travelling public. There is always a furore whenever there is a proposal to unman stations. The first newspaper campaign that got off the ground in relation to “Rail 2014” was about the withdrawal of resources from stations in Glasgow. People are always protective of their local booking office and how it is resourced. That is a key part of how people perceive the railways. Every year, more and more people are travelling on the railways. In general, that is because railway stations are safe places. If you want to get from A to B, and you travel by rail, you will be fine at the station you get on at, while you are on the train and when you get off the train. Beyond Scotland, there is quite a robust campaign on what the UK Government seems to be lining up for the railways, which is that it wants to savage stations and unstaff them. I think that the committee would find that the public would be coming to its meetings and complaining bitterly if that happened here.

11:00

Ian Macintyre: If children are travelling on trains and fare dodging or whatever, because we have staff on trains we can contact the police about those children. On numerous occasions staff have returned the children to their home station for their parents to pick them up. The RMT does not subscribe to the idea of the unmanned train; we have always argued that, for the safe running of railways, there should be two persons on trains and there should be an operational conductor.

Tom Kennedy: I have a point about ticketing. I travelled to Doncaster last week and bought a return ticket. The fare that I wanted to pay restricted me to travelling on one particular rail service. I had to stand at Doncaster station and watch three trains go from Doncaster to York before a CrossCountry train came in that I could get on to go to York, to catch another CrossCountry train that would take me through to Glasgow.

Countries on the continent such as those that Alex Johnstone is talking about have quite simple ticketing arrangements and one company running the railway system. That is fine. Doncaster is not an out-of-the-way little hamlet somewhere; it is a fair-sized town and station. However, when you go there, you have to navigate the system that I have described. I think that Ian Macintyre’s members need boxing instruction if they have to explain to someone on a train the ins and outs of the railway ticketing system that applies in the UK.

Alex Johnstone: Before we leave the issue of staffing, I note that we discussed with rail service users last week the idea that third parties—for instance community groups—could participate in

the running of some marginal stations, perhaps in rural areas, where there is a low level of service. What do you think of that?

Ian Macintyre: We would be totally opposed to it.

Kevin Lindsay: We would have concerns about what having part-time or voluntary rail staff would lead to. There is a safety implication, too. Running a railway is not like running a community shop. People die on the railway. Bringing in volunteers who see it as a hobby would not necessarily be a good thing for us. If there is a need for staff, we should have properly trained, properly waged staff. That is the only way in which we would see it going forward.

Tom Kennedy: For the TSSA, the “Rail 2014” consultation document points to options a bit beyond having somebody opening up a little tea shop in a station. The danger is that that could lead to the management of the stations passing to someone other than the franchisee. Attention needs to be paid to that aspect of the consultation. It could lead to even further fragmentation and an entirely different group of people working at station level. Over the years, the network has been tried and tested. The single passenger network works well in Scotland, with the stations kept under the control of Network Rail. We believe that that has to be managed consistently because to do otherwise would lead, some way down the road, to an even more fragmented, disjointed railway system.

Alex Johnstone: I will move on to a subject that was touched on a moment ago. The “Rail 2014” consultation contains the idea that, in future, cross-border services coming up the east coast might stop at Waverley rather than go on to Glasgow, Inverness and Aberdeen as they currently do. What are your views on that?

Ian Macintyre: We are not opposed to Edinburgh being a hub, but we have got a problem regarding cross-border services. One of the arguments relates to the ORCATS—operational research computerised allocation of tickets to services—system and the ticketing process. The proposal would create a monopoly for ScotRail, which would not benefit the taxpayer in the long term. Regarding the ticketing process and hubs, as we outlined earlier in relation to the disabled, families and many other people who travel on trains would prefer through-trains to their destination. It flies in the face of competition and franchising if we say that competition stops at Glasgow and there is a monopoly for the rest of Scotland. I am opposed to that idea. People should be able to board a train in Aberdeen and continue their journey to their destination in London without getting on and off at various stations and making changes.

Many people lose out in the ticketing process, even at present. Even if we go back to the British Rail days when everything was joined up, people used to go to the main stations to buy their tickets when they did not have to. That was because of a lack of knowledge. If someone boarded a train in, say, East Kilbride to go to London, they might have bought a ticket to go to Glasgow Central and then have bought another ticket there. They could have bought a ticket from East Kilbride to London, but a lot of people did not know that.

The proposal would make the situation worse, and the travelling public would lose out considerably. In a number of cases, we have had to rectify things so that the cheapest possible fare is provided. The committee is going to hear from somebody from the Association of Train Operating Companies, who will probably subscribe to what I am saying. There is a duty on people on trains and in booking offices to provide the cheapest possible fare for somebody travelling.

Apart from all the implications regarding the disabled and families and so on, our view is that, if there has to be franchising, there still has to be competition. Otherwise, if there is not going to be competition, the Government should do what we are asking and have a publicly owned and publicly accountable railway throughout the network. We subscribe to that.

Alex Johnstone: That was heavily qualified, but I will take it as being in favour of competition. [*Laughter.*]

Ian Macintyre: No, it was not.

Kevin Lindsay: The cross-border services must be preserved, full stop. The proposal would drive folk off the railway. We would be doing a disservice to people outwith the central belt and it would be wrong. The Parliament was rightly critical of Westminster when, first, it wanted to stop high speed 2 at Birmingham and then only take it to Manchester. If we now say that we will not have fast trains from London to Aberdeen and Dundee, we would fall into the same trap. The cross-border services must remain, because they are vital for outlying communities. The proposal would drive people off the railways and more people would return to flying. It is just wrong.

There would also be a job impact. We have members who work for East Coast and who drive trains to Aberdeen. We also have members who work for CrossCountry. If those services go, their jobs will go—they will not automatically move to ScotRail, because it is a different franchise. That is another argument against competition in the railway.

Tom Kennedy: I cannot add anything to what my colleagues said, other than that it would be difficult for me to think of how the proposal could

be described as an improvement. The objective is to improve the railways, but making people decant at Edinburgh to catch another train would have all the negative impacts that Kevin Lindsay has just described.

Ian Macintyre: The economic benefits of a high-speed train network are well documented. In 2006, W S Atkins published research that found that high-speed links from London via Heathrow to Birmingham and Leeds would cost £31 billion to build and would deliver benefits of £63 billion over a 60-year period. We totally subscribe to the benefit of high-speed trains.

Alex Johnstone: My final question is on a point that Ian Macintyre has touched on, but there might be other things that need to be said. Would removing the requirement for the other franchises to go beyond Edinburgh have a direct impact on the Scottish franchisee?

Kevin Lindsay: Of course. If there is only one train that you can catch, the Scottish franchisee can set the price and do what it wishes. At the moment, the majority of people like travelling on East Coast trains to Aberdeen because they are spacious and there is more room—they like the experience.

Alex Johnstone: I am guilty of doing that.

Kevin Lindsay: It is not just to Aberdeen, though, because East Coast still runs to Inverness and CrossCountry runs to Dundee. It is about choice and, at the moment, people are choosing to go on the larger trains. The train that ScotRail runs to Aberdeen is more of a commuter train and is therefore not as popular with rail staff and passengers.

Ian Macintyre: Relying on feeder services will congest local services at various times of the day. Providing seats and so on is not viable if people are put off the train at Glasgow or Edinburgh and have to travel on feeder services, because they will just block up the commuter services. That is why we oppose the kind of thing that you suggest, Mr Johnstone. We believe that it is vital that the Anglo-Scottish trains—CrossCountry, East Coast and West Coast—should remain.

In fact, I will take it a stage further and say that there is an option of opening up Ireland to the rest of Scotland through having a train service from Stranraer, which has problems at the moment with Stena Line, into Glasgow and then through to the capital, which would also open up the whole of the east and west coasts for Anglo-Scottish services. That is something that could be considered for providing improvements.

Tom Kennedy: I have nothing to add.

The Convener: Kevin Lindsay's point brings us neatly on to the issue of rolling stock. I will ask the

questions on this, having got some publicity after my comments last week, with lots of e-mails and people telling me that I was quite right in what I said.

Kevin Lindsay confirmed my point that, if people's journey is not time sensitive, they wait for East Coast and CrossCountry trains because those trains are more comfortable. Do you believe that current passenger rolling stock meets the needs of passengers, particularly on the longer-distance intercity and Highland routes?

Kevin Lindsay: The trains certainly meet commuters' needs. However, Scotland's railways are about—

The Convener: What do you define as a commuter?

Kevin Lindsay: Those who travel into Edinburgh, Glasgow and the major cities. However, there are issues around running the class 170 trains to Aberdeen, because they are not overly comfortable, and neither are those to Inverness. In fact, we have a conference in Inverness in a couple of weeks and have already booked seats on the East Coast train. It tells you something when train drivers choose that service. I think that that speaks volumes.

I do not want to play one type of train off against another, though, because the big con—I do not use that word lightly—is the rolling stock companies. They have taken so much money out of the industry that it is frightening. When the railways were privatised, every train in the UK got sold to the rolling stock companies for around £1.1 billion. They were undersold, because they were sold on by the original ROSCOs for £2.5 billion.

We need to find a way of getting the trains that Scotland needs for different routes. We also need to look at where we get the trains. Yes, it would be a big investment of capital expenditure to buy your own trains but, in the long term, that has to be cheaper than continually going back to a monopoly that will decide what trains you can get and how much they will charge you. The big anomaly in the railways is the ROSCOs and how they have taken so much money out of the railways.

The Convener: ScotRail's argument is that the Scottish Government provides it with the trains, so how are we in a position in which the trains that ScotRail uses are so different from East Coast mainline trains, on which we all prefer to travel? Why have we got rolling stock, for example, with two three-carriage units in which the trolley service cannot get from unit to the other? Why have we got rolling stock that is so restrictive?

11:15

Tom Kennedy: The Competition Commission looked at rolling stock on the railways. Its report, which was published in 2009, analyses what the problems are across the UK with the provision of rolling stock.

Kevin Lindsay has correctly put his finger on the rolling stock companies' excessive costs and profits. The Competition Commission report shows that ROSCOs do not have enough of everything to let everybody have what they want. There is a limited resource to be allocated. The market favours the three companies that own the rolling stock. In other words, there is no competition in the market—this is an area where there is a lack of competition. There is no obvious remedy to that.

Under the current franchise, ScotRail paid about £81 million for the rolling stock for 2010. That kind of cost will be carried into the next franchise. Given that this committee looks at investment and infrastructure, the TSSA would like it to examine why the ROSCOs are continuing to bleed the Scottish taxpayer for profits, based on a gerrymandered market, which they preside over. The Competition Commission did not have any specific proposals to resolve the problem; it could say only that there is a problem and that a number of measures need to be introduced. When the Scottish Parliament looks at managing this level of expenditure, it should think innovatively about how we can ensure that the Scottish taxpayer does not pay through the nose for rolling stock.

Ian Macintyre: Our position is that ROSCOs are totally unregulated and we would like to see them publicly owned and publicly accountable.

I will answer the question about rolling stock and why we cannot have loco hauls in Scotland. We would need to look at a lot of station platforms to see whether they could accommodate loco haul trains. Some loco haul trains have a considerable number of carriages. We think that the Sprinter trains, and so on, that we have are fit for our purpose, but if we were talking about bringing in loco haul trains, we would need to look at platforms.

I do not know whether that is what you are looking for: a straightforward answer on rolling stock.

The Convener: I do not think that that problem is insurmountable. Often, when we stop at a short station platform we just get told to go to another carriage to get off. We are not talking about ScotRail necessarily having great long trains. I am talking about the comfort of the interior of the train in terms of spacing of seating, decent luggage space, and catering and other facilities.

Ian Macintyre: Moving trains up and down platforms can cause problems for disabled people, whether they are deaf, blind or whatever—we spoke about disabled people earlier—and we should not be telling them to go through the train. That should not be encouraged. There are dangers in things like that. I am trying to be as frank as possible.

Kevin Lindsay: Clearly, ScotRail purchased generic units that it can use on various different routes. They come in twos or threes, and some of the new units come in fours. The units can be added together. If ScotRail is going to run a train round the Fife circle early in the morning, it can join two 170s together, which gives six coaches. That is fine. Then, it will split those and run three coaches to Aberdeen and three coaches to Inverness. Clearly, more luggage capacity is needed on Inverness and Aberdeen trains than is needed on a Fife circle train. That is where the problem lies. If the franchise holder wants to run intercity trains to the north, it must purchase units that are suitable for purpose. However, it has gone for a cost-effective solution by getting generic units that can do both. There is a cost associated with that.

We have talked about SQUIRE, and there are performance issues to do with people having to stand on trains. If more seats are taken out, more folk will have to stand. That is the reality. The problem is the units that are leased—they are not purchased—in the first place, because it is clear that we should be leasing different units for different routes, but that has never been ScotRail's attitude. It is interesting that we are talking about comfort on the high-speed trains, as they are the oldest trains that we have in Scotland, yet we are still saying that they are the comfiest.

The Convener: You talked about purchasing and leasing trains. My understanding is that Transport Scotland leases the trains from the ROSCOs.

Kevin Lindsay: Yes, that is correct.

The Convener: So there is a direct lease between Transport Scotland and the ROSCOs, and ScotRail operates the trains.

Kevin Lindsay: Yes; it operates the trains under the franchise.

The Convener: Am I being unreasonable in saying that ScotRail needs a different type of train for the Aberdeen to Glasgow or Edinburgh service compared with the trains toting around Fife or going on the Glasgow to Edinburgh commute, which is about 40 minutes compared with over two hours?

Kevin Lindsay: I agree with you—that is what I said. However, it is down to cost and ScotRail prefers the generic unit.

The Convener: Is that because it is easier for it to operate?

Ian Macintyre: We agree with you. There should be more legroom and everything else that goes with a longer journey because there is a high price associated with that, as well as further for the passengers to travel. We, like you, believe that there should be the greatest degree of comfort and everybody should be guaranteed a seat. For example, on many occasions I have travelled from Aberdeen and not got a seat until Stirling.

The Convener: It does not cost more to use East Coast. I looked at the prices last night when I bought my ticket and that costs less than the ScotRail one.

Alex Johnstone: It just depends on what you can get in 10 minutes.

The Convener: When I looked—it was last night at Stonehaven—I saw that all the East Coast off-peak tickets cost less than the ScotRail ones.

Alex Johnstone: My question is not for the panel; it is a matter that I address to the convener. The issue of rolling stock companies has come up. A little knowledge is a dangerous thing and I am not going to repeat what little I know on the record. However, if possible, I would be interested to have details on who the rolling stock companies are.

The Convener: The companies are coming to the committee on 18 April.

Gordon MacDonald (Edinburgh Pentlands) (SNP): I will move on to the subject of passenger comfort, security and information. The passenger experience is an important aspect of rail travel and we have seen ScotRail passenger numbers increase. We must try to continue to attract passengers from the business users, commuters and leisure travellers. People are unlikely to travel by train if they consider that it will be uncomfortable or unsafe. Do you have any views on how passenger comfort can be improved and, in particular, the provision of on-train catering services and wi-fi and first-class seating?

Ian Macintyre: By increasing the availability of wi-fi and retaining the on-train buffet service and catering services, especially for journeys to Aberdeen, for example. More than anything else, people expect those services. From RMT's perspective, that saves jobs as well. There was talk in the franchise about decreasing catering services. We would be opposed to that and we hope that those services will continue.

Wi-fi seems to be a big thing in the modern age, so that could be included in addition to telephones in trains. That is not unreasonable these days.

Kevin Lindsay: West Coast, East Coast and CrossCountry currently provide catering facilities or a shop—they are named differently—and the catering facilities are greater than those of ScotRail, which provides a trolley that moves through the train. Interestingly, First TransPennine, which operates the Manchester services, also has a trolley service and also does not have wi-fi, so there is a link, in that the same company provides the poorest catering and does not provide wi-fi.

We are rail passengers as well as trade unionists; we use the trains and we want a comfy journey, we want somewhere to store our luggage and, if we are working on the train, as many of us inevitably do nowadays, we want access to wi-fi so that we can get on and do our work. It seems to me to be a must, certainly on the intercity links—Edinburgh to Glasgow, services to Dundee and so on. I understand that half the time on the busy suburban routes, in and around Glasgow for example, you are lucky to get a seat, never mind the opportunity to take your laptop out. There should be targeted wi-fi rather than wi-fi across the board. I am not sure how convenient it would be or how easy to use, but people might want to use it on their phones and so on.

Tom Kennedy: I support everything that my colleagues say. Let me add just one point, which is a personal observation. I believe that it is correct to say that the high quality of service that you get from ScotRail goes straight through to the catering staff. The current passenger franchise is that well run; you have that degree of quality and you should be looking to protect that in the next franchise.

Ian Macintyre: Another thing to consider is the route. On the west highland line, for example, you know that you will have a lot of bikers and people with rucksacks and so on, and, in the context of what we said earlier about trains, specific trains could be allocated to that line and the Aberdeen line. You get lots of people with rucksacks and bicycles, and bicycle space on the Sprinters is very limited at the moment, so we should take into account that the west highland line is quite popular with bikers and so on.

Kevin Lindsay: If we are talking about passenger comfort, the west highland line is probably one of the most scenic and beautiful journeys you will ever take in Scotland and it is also one of the most uncomfortable, on an old 156 unit. Our scenery and our tourism are a huge industry, so why do we not provide viewing cars and specifically designed trains to go up the west

highland line? Let us start selling Scotland; we are missing an opportunity.

Gordon MacDonald: You touched on on-train catering services. How do you feel about there being an alcohol ban on certain services? It has been suggested that family groups and elderly people sometimes become a little concerned if people are drinking on the train, and passenger and staff security needs to be taken into account.

Ian Macintyre: Our view is based on the knowledge that there are bans now when there are football games, rugby games and other sports events. We need to look at the trips that are a feeder service to those lines. When people are travelling from Edinburgh having been at Murrayfield or at a football game at Hampden, the bans are on specific routes and the problems happen when people leave them and go on to other routes. There should be a ban right through, but only on specific days.

Gordon MacDonald: Should there be a network ban on those days?

Ian Macintyre: There should be a network ban for the safety of everybody—the travelling public, the staff and everybody else.

Gordon MacDonald: How can provision of real-time rail information, particularly during periods of disruption and delays, be improved, specifically for passengers who are already at stations or who are on the train? Disabled passengers might have a hearing impairment or sight problems, so how can we improve provision for them, too

Tom Kennedy: When there was considerable disruption with the weather last year, a lot of learning went on at ScotRail. The company took a hard look at its experience and at what it had learned in order to try to ensure that things that had not gone well would be improved. That is part of what happens on an operating railway. When things go wrong, the weaknesses show up, but those weaknesses should be examined and addressed properly. That is the main thing I have seen, from my members' points of view.

Ian Macintyre: For RMT members, such times are when we see things at their best. People who work the railways say that it is great to work on them when everything is going okay, but it is when something goes wrong that the expertise comes out. They try get as many passengers around as possible.

11:30

Teletext used to be a great asset for telling people about train delays and so on, but a number of channels have done away with it. There is still local radio for people who take their cars to train stations, many of which have opened car parks to

allow drivers to drive to the station and then take the train into the city centre. I think that the staff do exceptionally well in getting out as much information as possible, but companies themselves need to use the media a lot quicker and to best advantage.

Kevin Lindsay: ScotRail has learned a lot of lessons from the horrendous time it had a couple of years back. For a start, it uses social media a lot more; it has its own Twitter account and sends out e-mails in the morning about late-running trains.

However, as has already been suggested, there is nothing better than having a member of staff at a station telling you that your train will be late and the reason why. That must be a way forward. After all, the technology exists; drivers get information about why their train is delayed and if there is a guard on the train they can pass on that information. However, on a driver-only train, the driver might get that information but has no way of passing it to the ticket examiner. He can use the public address system when it is safe for him to do so, but the fact is that when there is a lot of disruption on the railway, getting the train from A to B safely and efficiently is higher on the agenda than putting out information to passengers. As for providing information at stations, it would certainly help if more investment could be made in technology to ensure that public address systems work better.

Gordon MacDonald: What more needs to be done to make rail travel more accessible to disabled and elderly passengers and to people who travel with young children?

Ian Macintyre: With regard to disabled passengers, we must ensure that stations have enough ramps and, if they cannot be provided, lifts. I do not know the exact number but, in a number of stations, disabled access could be better; in some cases, disabled passengers can access the station through only one entrance and have to go along various roads to get there. The same point applies to families, and the ramps that have been built in a number of stations have certainly made things easier by saving them having to jump up stairs and so on.

Of course, the most important issue for all those groups is provision of through trains. Instead of having to chop and change, disabled passengers and families would prefer to get a train straight from A to B.

Kevin Lindsay: Someone mentioned encouraging elderly people to travel. At the moment, pensioners get free bus passes; I would also offer them free off-peak rail travel. Everyone is talking about having an integrated transport system: if we can let people go on a bus from here

to wherever, why can we not do the same on the railway, if the capacity exists?

Gordon MacDonald: Are not there a number of local authority schemes like that?

Kevin Lindsay: Coming from West Lothian, I know that the local council subsidises travel. However, there are anomalies in the system. For example, when my mother travels to Glasgow, she has to buy a ticket to Drumgelloch, get off there and buy another ticket for the next train to Glasgow. People are not allowed through travel. Given that seats are available, that we have the capacity and that taxpayers' money is running the trains, why are we not doing the socially responsible thing and opening up our railways to our pensioners? It seems to be straightforward to me.

Ian Macintyre: Having worked a train, I know what Kevin Lindsay is talking about. On the Edinburgh to Glasgow line via Shotts, the train can take people only as far as Shotts. Of course, that also gives staff a lot of trouble. If such a system were to be introduced, it would have to apply to the whole network in Scotland; it should not stop when people cross over into, say, the Strathclyde partnership for transport area. That would, in fact, also stop a lot of confusion over tickets. We have enough problems with ticketing as it is.

Tom Kennedy: One way of encouraging more families to use railway services is to consider fares because cost can be a significant barrier.

Ian Macintyre: We could look at off-peak times.

The Convener: Finally, how should the Caledonian sleeper service be developed? Should it be let as a separate franchise?

Ian Macintyre: The sleeper service should remain part of the ScotRail franchise.

Tom Kennedy: We are of the same view.

Kevin Lindsay: We totally oppose any move to take the sleeper service out of the franchise. Although we welcome the investment that the Westminster and Holyrood Governments have committed to it, we still have some reservations about the decision to divert the £50 million from Westminster to Scottish Water and about the fact that there is no timescale for bringing that money back. It is a bit strange that people are suggesting that the ScotRail sleeper service be siphoned off into a separate franchise and that, after a deal to safeguard the franchise is done, the money be taken and put into Scottish Water. That is a bit of an anomaly.

Alex Johnstone: When, a few years ago, I noticed a lot of mobile phone aerials appearing on railways, I inquired about it and was told that it was all to do with better communications, the

provision of wi-fi on trains and so on. However, you seem to be suggesting that real-time communication to the trains is not as good as it ought to be. Is the system being improved or is it simply not up to the job?

Kevin Lindsay: The new “global system for mobile communications - railway”, or GSM-R, that is being introduced will revolutionise contact between the signalling centre and the driver.

Alex Johnstone: Can that system also provide wi-fi?

Kevin Lindsay: GSM-R is about direct communication between the driver and the signaller. It will totally change the railways, because the on-board team will have the information that they need about what is going on all around them.

Ian Macintyre: It is not about folks' wi-fi.

Kevin Lindsay: The question then, of course, is how we relay that information to passengers.

The Convener: I thank the witnesses for their evidence. I suspend the meeting to allow them to leave the room.

11:37

Meeting suspended.

11:43

On resuming—

The Convener: We continue our second evidence session on the Scottish passenger rail franchise and we welcome Richard Davies, who is the head of strategic policy for the Association of Train Operating Companies, or ATOC.

Aileen McLeod (South Scotland) (SNP): I have a couple of questions on the franchise. First, what are your views on the suggestion that the Scottish passenger rail franchise could be let as a management contract in which the operator is paid a fee to provide a service, rather than as a traditional franchise?

Richard Davies (Association of Train Operating Companies): In approaching that question and in answering all the committee members' questions I represent train operators as a whole, across the country.

One thing to make clear is that there are a range of franchise agreements out there already—the arrangements depend on when and by whom they were let. The Merseyrail electrics contract, for example, was let for 25 years about 7 years ago and it is in a different form to the West Coast franchise agreement—it is much more like a management contract. The concession in place for

the local lines in north London, which was taken over by Transport for London four or five years ago, is a different kind of contract again. Our members are used to operating in a variety of different contracts. They are also used to bidding for a variety of different kinds of contracts elsewhere in Europe.

11:45

We tend to come back to what is likely to lead to the best value for money overall from the taxpayers' point of view, because we are acutely aware of the high subsidy requirements of many railways. The balance is of a management contract—which perhaps has rather limited incentives in terms of management of cost and revenues—against a full-risk franchise. A full-risk franchise is clearly more difficult to let. It is sometimes more challenging for the franchising authorities, but it puts in place somebody who can take full responsibility for the costs and revenues of the train operation and who may therefore be able to manage them much more closely. We advocate that the full-risk franchise is probably the better way to go—although a variety of structures are possible.

Aileen McLeod: What are your views on the creation of a single franchise with different levels of service specification for economically viable and socially necessary rail services?

Richard Davies: Transport Scotland's proposal is, in some ways, quite similar to the proposal that we put together two years ago. We did a piece of work on franchise reform to identify some of the issues that we thought ought to be considered in the next range of franchises. Transport Scotland's proposal allows for a degree of flexibility for the more commercial end of the spectrum, but even there we have always fully acknowledged that in practice an awful lot of regulation is still likely to be required in a lot of different areas: commuter fares, for example, which the previous witnesses touched on; late night services; Sunday services and so on. I tend to view them not so much as alternative models as degrees across a spectrum. I suspect that the model of a completely liberated franchise—with, as it were, no social obligations—is probably not going to be a starter for the ScotRail franchise.

Aileen McLeod: We heard earlier from some of the transport trade unions on the length of the franchise. Ian McIntyre, the RMT representative, said that the franchise should last no more than five years. How long do you think the Scottish passenger rail franchise should run, and why?

Richard Davies: We generally support a longer franchise—by which we mean longer than the current First ScotRail franchise—of 15 to 20 years.

However, we would also support a franchise that was focused on outputs rather than on inputs. A difficult area that the franchising authorities in London have got into is just how much detail to go into in specifying and managing the franchise. If one specifies the timetable, the rolling stock, the ticket office opening hours, the numbers of ticket machines, recycling spaces and car parking spaces and so on, some of the value in having a longer-term franchise is eroded. If a franchisee is there for a longer term, it can take a much more considered view of how to develop the franchise and improve services, which are important services for public transport across the piece. In five or seven years there is only so much that one can do. Franchisees can build much better relationships with Network Rail, local stakeholders, local authorities and people such as members of this committee if their tenure is 15 years. However, that is at risk of being undermined by having such a detailed prescription.

Aileen McLeod: Thank you very much.

Malcolm Chisholm: You expressed a view on the first point that I was going to raise—you may want to say a bit more about it—which was on the level of detail that should be specified. Following that, can you answer the concerns that have been expressed by the unions—and, I suppose, by others—that more minimal requirements could result in problems for passengers?

Richard Davies: We have always acknowledged that this is a question of the balance between the public and private sectors. There will always be a need for a large degree of state involvement; the question is how to structure that to make it work a bit more intelligently than some contracts have worked in the past.

We acknowledge the need for safeguards in relation to service levels, the minimum number of calls at stations and so on. To decode this slightly—which might make things clearer—I should say that the problem that train operators typically have is the opposite: they want to offer more services, to increase service frequencies, to get more platforms put in, to extend platforms and so on. In the detailed franchise system that we have in England, it is quite difficult to do that. There is a significant procedure that must be gone through to amend service level contracts and add services.

Because we have been going through a period of demand growth in the two nations, we are in a quite different place from where the original architects of privatisation thought we would be. The problems that we have are those of trying to put in place increased service without having to go through a heavily bureaucratic process.

Malcolm Chisholm: You mentioned England. Is that a problem with the ScotRail franchise, too?

Richard Davies: There has been significant demand growth in the ScotRail franchise as well: as I understand it, passenger numbers have risen by about 50 per cent since privatisation. The rise has tailed off a bit in recent years, but the matter of provision of an adequate service where it is needed is important. That relates to the questions that were asked earlier about commuting and travelling into cities, which will clearly be a key question for the design of the next ScotRail franchise.

Malcolm Chisholm: Has growth of services been prevented by the nature of the current franchise?

Richard Davies: The current franchise has perhaps made it a little more difficult to grow services, as the changes must be agreed in some detail with Transport Scotland, which was originally the Strategic Rail Authority. I point out that I was in the Strategic Rail Authority when the ScotRail franchise was originally let, before its extension, and the Strategic Rail Authority's model was carried through.

We need to think about how demand growth is handled. We have to move away from a model in which there is a timetable that is designed by a public authority at the centre, with any changes to that having to be done via a change procedure that involves negotiation of terms and so on, which can take a long time and leaves people travelling on crowded trains in the meantime.

Malcolm Chisholm: What are your views on revenue risk sharing and how should it be managed?

Richard Davies: Revenue risk becomes a more significant issue in the longer franchise structure. It is proposed that some of the franchises in England will be let for 15 years. The degree of risk that one can take in that timescale is a tricky issue for bidders. There is a broad issue of balance around what is value for money overall. You could have a system in which full revenue risk is taken by the franchisee. In a long-term franchise, you would have to build in a little bit of what is known as a risk premium for doing so. We have come to the view that some degree of risk sharing is sensible from the point of view of reducing, but not eliminating altogether, that risk premium.

In the west coast intercity franchise, which is being let at the moment, there is some protection on the changes in gross domestic product, and I believe that Transport Scotland is looking at the same sort of system for the future ScotRail franchise.

The key point is to consider the risk structure that is being proposed and how it is priced, rather than focusing on the payments that would eventually be made under it. The focus of quite a lot of discussion among your colleagues in Westminster is the question of why significant payments are being made to train companies under the revenue risk sharing provisions that the current franchise structures typically have, and which are there, ultimately, as a result of the recession. People tend to overlook the fact that, as a result of having had those revenue risk sharing provisions, people have offered more competitive terms in the first place.

Malcolm Chisholm: What about the opposite situation, when companies make significantly more profits than they had expected?

Richard Davies: Perhaps slightly unusually for a trade association, we have suggested that that is a significant issue and that, potentially, a profit-sharing system might be introduced to deal with those circumstances, but it must be structured so that some incentives are left.

The issue with all such systems is at the margins, because there can end up being some strange outcomes. In some franchises, we have had a combination of revenue share and profit share. When both interact, a lot of the incremental revenue goes straight back to the funders rather than to the train companies, which is an odd position in terms of incentives. We are aware of the issue of profits that are above expectations.

Margaret McCulloch: I will ask almost the same question as the one that I asked previously. The committee has heard evidence from passenger groups that service quality is often down to staff availability and the quality of training. How could those be improved under the new franchise?

Richard Davies: With the ScotRail franchise, the SQUIRE regime provides a series of bonuses as well as penalties for the operator. We have been calling for a similar system in England. A system that is based on the service as experienced by passengers, which can perhaps be measured through surveys, anonymous surveys, mystery shopper programmes and such like, has considerable potential. However, there is a tendency with such systems to develop them and refine them to try to engineer out all the issues that concern particular interest groups.

We would advocate a system that is fairly broadly based and that measures satisfaction with ticket retailing facilities and with stations and station presentation, rather than, for example, satisfaction with the amount of litter on the station platform. We have reached the stage in rail privatisation at which there is an opportunity to

focus the outputs of the franchises on what passengers really want, because we have quite a good sense of what they want now that all the market research has been done. We must have the courage to set up a system that facilitates that directly, rather than trying to regulate what I would call the intermediate stages, such as the number of times that a station is cleaned of litter and where the ticket machines are located.

Margaret McCulloch: ScotRail has introduced the successful adopt-a-station initiative.

Richard Davies: Yes, and some of the English operators have done similar things. We heard the concern that the union representatives expressed about where the boundary might be drawn but, in general, there has been strong community support for having greater involvement in the stations and in marketing the train service generally. Of course, there are some safety issues, so people who volunteer will not do safety-critical work, but we have quite a successful programme of community rail partnerships in England, whereby the Department for Transport has put some seedcorn money in alongside local authorities to encourage community groups to get more involved in their local railway lines. That has been very successful on, for example, the lines to Cromer and Sheringham in Norfolk.

Margaret McCulloch: Should a train arriving "on time" mean that it arrives on time, rather than within five or ten minutes of the published arrival time?

12:00

Richard Davies: That is a long-running question. We have taken the view through a national task force, which brings together the train operators, Network Rail, the DFT and the Office of Rail Regulation, that the existing system is probably the best starting point for the next control period. We are just beginning the debates about control period 5, which runs from 2014 onwards.

Part of that has been a debate about whether we should, over time, move to a right-time system of measurement, because in principle the data exist to do that. That potentially might be on the table in the longer term, but we have all got used to a time to five minutes or time to 10 minutes system, and I suppose that, if the way in which things are measured were changed, we would get into another debate about whether the measurement system was changed to try to conceal something else. Consistency over time is important.

There tends to be a view that, in planning and operating the railway, one can somehow plan for time to five separately from right time, if members see what I mean, but all the experience has been

that, to get to the time to five measures, it is all about planning right time anyway. The two do not oppose each other in the way that they are sometimes thought to. All the big performance drives, such as that by South West Trains three or four years ago, have been about right-time railway.

Adam Ingram: You probably heard the criticism from the unions of the indemnification clause in the current franchises that protects train operating companies from the implications of industrial action. Can you justify the maintenance of an indemnification scheme in the new franchise?

Richard Davies: I can certainly tell members a bit about the indemnification clause and fill out some history. Such clauses have existed since the start of privatisation. They were in place in the original Office of Passenger Rail Franchising agreements, and I believe that they exist fairly generally, although there may be some exceptions that I am not aware of.

To be blunt, if such clauses did not exist, there would be the possibility in an industrial dispute of not only staff losing wages, but train companies losing revenue. A lot of revenue can be lost very quickly in an industrial dispute. I am sure that the committee will want to go into the profit margins in franchising, which are not huge. Fundamentally, it is the franchising authority, not the train company, that has the discretion whether to use the clauses, and they were basically put in to prevent the train company from being wiped out by what might be regarded as a capricious industrial dispute. Obviously, industrial relations on the railway have evolved a lot, and perhaps we are not quite where we were in the early 1990s. Fortunately, everybody is aware of the need to work much more closely on such issues.

That is why those clauses have existed. They have always been controversial. They are a potential mechanism to improve efficiency over the long term. As members heard from the previous panel, that is a big finding of the McNulty report.

Adam Ingram: Now that we have 20 or so years of experience, would you regard the removal of those clauses as a significant threat, or would you be relaxed about our moving to do such a thing?

Richard Davies: That is really a question for the franchising authority rather than a train company. It is for Transport Scotland, and it is a value-for-money question. People would probably bid either way, but the debate must be broadened out from the clause to the overall cost pressures on the railways, what those pressures are and potential ways of addressing them—over the past 18 months, we have spent a lot of time on the McNulty report. If one does not want to address

some of that, which is a perfectly valid outcome, the indemnity clauses are less valuable. If one does, the indemnity clauses are potentially much more important. Fundamentally it will be a choice for Transport Scotland in letting the contract.

Adam Ingram: I have a few other questions about services and the shape of the new franchise. What could the new rail franchise operator do to decrease overcrowding on peak-time trains?

Richard Davies: The committee has partially touched on that. Crowding is a major issue throughout Great Britain. It is a big problem in London, Manchester and Leeds and on many services in Scotland. It is about having adequate rolling-stock provision. In Scotland, it is perhaps a little bit easier than in other places. It is possible to lengthen trains and run full-strength trains more often. In the London area, we typically already operate 12-car trains and the next stage of growth is that much more tricky.

It is about planning and setting up the franchise on the expectation that some degree of peak growth will have to be met inside the franchise. People will then propose rolling-stock solutions to address that. As was touched on earlier, it could be a variety of options, such as more diesel multiple units and loco-hauled trains. That issue could be part of the franchise, and people bidding for the franchise could be asked to propose solutions. It is typical in these kind of franchises that we are suffering from demand pressures, so if bidders think that proposing solutions is a key way to win the franchise, they will think up ways of addressing crowding through rolling-stock provision.

Adam Ingram: No doubt we will come back to rolling stock.

My next question is on the proposal to increase the number of limited-stop intercity trains, which will meet with stopping services at a number of interchange stations. What are your views on the recasting of the franchise to accommodate that kind of approach?

Richard Davies: Do you mean domestic or cross-border services?

Adam Ingram: I mean cross border and intercity, so that we get faster connectivity between our major centres, linked with stopping services at interchanges.

Richard Davies: There are several points, really. It is important to acknowledge, as you have done, the role of cross-border services in Scotland, not just as cross border, but as providing significant connectivity within Scotland. East Coast and CrossCountry in particular play quite a major role in commuter provision.

Fundamentally it is a question of balance and where Transport Scotland wishes to take things. Some of the long trains that East Coast in particular operates run empty at some times of the day but not at others, when they play a major role in peak provision across into Fife and so on. The solution is probably more about sitting down with all the respective train operators to balance up the timetables and the capacity provision across the future ScotRail, East Coast and CrossCountry franchises. That kind of discussion has already happened, when East Coast withdrew the Glasgow services.

We do a lot of that in many parts of the network through the utilisation study process sponsored by Network Rail. We have generally been able to find ways of reconstructing the timetables, where necessary, to accommodate all the pressures on them. That approach has been applied to the west coast mainline, the south west mainline, First Great Western and so on.

Adam Ingram: So it is not your view that that different approach should be written into the franchise agreement.

Richard Davies: I know that it is an area that Transport Scotland is interested in looking at. It is clear that there are pros and cons. It is a topic that has been much debated over the years. I gently point out that the cross-border services are part of the overall timetable construction in Scotland. Simply severing them without thinking things through and replanning a lot of the ScotRail services around that would be quite a difficult task.

There are reasons for doing that, though. I think that Transport Scotland feels that it could probably get a little more revenue, because it would be sponsoring some of the services directly, rather than through the franchisee. Again, it is a question of balance.

Adam Ingram: What about the management of stations? Should that be the responsibility of one organisation across the piece? At the moment, I think that ScotRail manages all the stations bar Waverley and Glasgow Central. Is that right?

Richard Davies: Yes, that is the current position.

Over the past few years, we have been calling for and have been working quite successfully with Network Rail on a move to a system in which the train operators take over full responsibility for stations. Currently, the train operators operate the stations, but they do not maintain or renew the fabric, which makes for quite a complicated contractual relationship. To make all that work, the agreements have to be lengthy documents.

Both parties have come to the view that opportunities exist to do things a bit better by

putting responsibility for all the work on one side or the other. With the major stations—Glasgow Central and Waverley—it is all on the Network Rail side. With the other stations, we think that it would fit best with the train operators. The contract for the Greater Anglia franchise that began on 4 February was let on that basis—the new franchisee, Abellio, has taken on full responsibility for maintenance and renewal.

Adam Ingram: That is a clear view.

The final question that I want to ask is about rail fares. Despite the simplification of rail fares that took place two or three years ago—in 2008, I think—a lot of passengers remain confused about how to obtain the best-value fare. How could that be addressed and rectified in the new franchise?

Richard Davies: As you say, it is a recurring issue. ATOC would never say that the system could not be improved. There has been a process of progressive simplification, but there are opportunities to go further.

We have quite a complicated system of what I would call small-r regulation on fares through the ticketing and settlement agreement, which was put in place at privatisation. It sets out things such as ticket-office opening hours and how fares are to be constructed. The issue is whether, in the long term, an agreement on that level of detail is the best way of facilitating some of the improvements that we are talking about.

A few days ago, as part of the suite of documents that it issued with the command paper, the Department for Transport launched a consultation on fares. Part of it addresses the issue of complexity and the interaction with the regulatory system, which the department, in effect, sponsors. From our point of view, that is positive. We have continued to point out that the system that was put in place at privatisation predated the internet; it even predated call centres, more or less, and it certainly predated smartphones, iPads and so on. The way in which people interact and buy tickets has changed, and the rules need to move on with that.

12:15

Adam Ingram: What about the introduction of smart-card ticketing? Could that mechanism also help? It would certainly simplify things for passengers. Presumably you could do away with quite a lot of complex factors if everyone was issued with a smart card that they could use whenever and wherever they chose.

Richard Davies: Part of the DFT's consultation is about the wider use of smart cards. It is sponsoring a programme of development for the ITSO standard—the national smart card

standard—that was awarded £45 million in the autumn budget statement last year. We are actively engaging with that.

I would not say that smart cards are a universal panacea. A large number of people use the rail system frequently as commuters or as regular shoppers or leisure travellers. However, there is also a large number of people who use the system only occasionally—perhaps once or twice a year at most—whom I suspect would not necessarily find the requirement to have a smart card for occasional use so attractive. It is therefore about getting the right blend of systems.

I agree that the system of fares is quite complicated sometimes. However, people do find their way through to cheap fares. Advance tickets are being sold in record numbers. You heard earlier about the example from Doncaster in that regard. They are clearly part of the process that has encouraged so much demand growth on the intercity routes in particular.

The Convener: We move on to cross-border services. The “Rail 2014” consultation suggests that cross-border services that currently extend north and west of Edinburgh could stop there. What are your views on terminating all cross-border services that currently extend north and west of Edinburgh at Edinburgh Waverley station? Is that something that your members have expressed an interest in?

Richard Davies: That is something that we touched on previously. It is one of the areas in which a balance must be struck. I think that Transport Scotland believes that an integrated intercity timetable could be a better way to go in Scotland. We always say that the rail system needs to be planned on as large a canvas as possible. Certainly, the timetabling of services by ScotRail, CrossCountry and East Coast means that they interact with each other across the country. A lot of the timings of CrossCountry services are of course driven by capacity across Birmingham and Leeds, because the trains travel through there. The system needs to be looked at as a whole. Clearly, the cross-border services in the peak hours provide a major slug of capacity, which I suspect it would be quite challenging to replace.

The Convener: Would that lead to less competition?

Richard Davies: It would certainly lead to less competition, but I do not think that that is the main point. The debate about cross-border services has been around for a long time. Clearly, some of them run quite empty. That is certainly the case for those up to Aberdeen and across to Glasgow in the late evening. That situation is balanced, though, by some of them being very full. The issue

has always been viewed as a cost point more than a track-competition point.

The Convener: We will move on to rolling stock. What is the best way of procuring new trains for the electrified lines created by the Edinburgh to Glasgow improvement programme project?

Richard Davies: That is another area on which we have been doing a fair amount of work in recent months. Just before Christmas, we published a document on rolling stock that considered some of the comments that McNulty made in his report. We have had a system in which Transport Scotland has procured the trains itself—you touched on this with your previous panel—and that is a route that we could take. It can be done and it is what the Department for Transport is doing in England with the replacement high-speed trains, the trains for Crossrail and the trains for Thameslink. Some 2,500 vehicles altogether, about a quarter of the train fleet, are being procured on that basis, but our preference remains for rolling stock procurement and provision to be done via the franchisees.

Fundamentally, the franchisees—the train operators—must make everything come together. They need to make the train paths, the infrastructure, the train contracts, the train manufacturers and so on come together and if one bit of that is dealt with by another entity, it is potentially a little more complicated. Our preference, where possible, is for rolling stock to be regarded as a full part of the franchise. It should cover the provision of rolling stock as well as the provision of staff, in business terms.

The Convener: Transport Scotland is currently involved. Is the Westminster Government not involved with other franchises?

Richard Davies: Most of the franchises in England have been let on the basis of very detailed timetables and the presumption that all the fleets on those routes would stay put. In effect, the Department for Transport has planned where the rolling stock should go and continues to do that from time to time. In the grand scheme of things, that is probably not the best way to go from a Government perspective. Is the Government really best placed to plan rolling stock in such detail as we have seen in the past? It should be viewed as a core part of the franchise proposition.

Some of the franchises in England, if you go back over time, were dealt with in a different way. The rolling stock on the Chiltern franchise, which was let in its current form in 2002, was not planned by the department. It was totally a franchisee responsibility and as demand has grown over time the franchisee has negotiated

with leasing companies to get more new trains built. That system seems to have worked pretty well.

The Convener: My mission, as you have probably heard, is to upgrade the provision of rolling stock on the longer routes in Scotland. Could that best be achieved by whoever gets the franchise deciding what stock they can procure? The availability of stock is obviously limited, unless you undertake to upgrade a lot of carriages.

Richard Davies: Yes. I will follow up on a couple of points that came up in your discussions with the previous panel.

Rolling stock is hugely constrained at the moment, with a total train fleet of about 12,000 vehicles across England, Wales and Scotland. That has increased by only about 10 per cent since privatisation, whereas we are running about 25 per cent more train miles than we did at privatisation and are moving about 60 per cent more passengers overall. That is what the Competition Commission found when it considered the issue back in 2008.

There just is not enough of the stuff, so the question is how to facilitate an appropriate level of provision to stop it being a zero sum game, as it were. The Aberdeen service is as it is because there are very few choices, fundamentally, but if we go into a new franchise perhaps we can open up more possibilities. I would certainly encourage Transport Scotland and you to consider using the franchisee to propose plans for rolling stock provision and make that a competitive part of the process. Transport Scotland could assess it by any criteria it wanted to use and hold the franchisee to account for that rolling stock plan.

The Convener: Are the diesel units that will be released through the EGIP project likely to be cascaded to other parts of the ScotRail network, or will they be moved to other franchises?

Richard Davies: You mentioned that you will shortly hear evidence from the ROSCOs. Formally, the vehicles belong to the ROSCOs, so it is up to them to assess commercially where it is best to lease them. Our understanding is that Transport Scotland envisages that the diesel multiple units will stay put in Scotland and be cascaded internally, which is sensible from the point of view of issues such as depots and capacity.

The franchise re-let point is the key point at which to test options such as retention of vehicles or life extension against new build. Some of the older DMUs, the 158s, are due for major mechanical work, which could involve fitting new and more efficient engines. Another option, to which the previous panel of witnesses alluded, is that loco-hauled stock could become available

from other routes, such as the London to Norwich service, which has mark 3 vehicles that were bought in the 1970s. One plan is to convert that route to electric multiple units because, over time, it has become more of a commuter railway than an intercity one. That stock could be used on longer-distance services here.

To pick up on a question that you have alluded to, there are opportunities to accelerate intercity services within Scotland. That has always been identified in the route utilisation studies that Network Rail has done over the years to see how that might be done. That would probably fit with slightly shorter and faster train services. We have tended to have a bit of a hybrid timetable that is a sort of commuter timetable and a sort of intercity one. The timetable is perhaps not structured in the way that the size of the cities justifies.

That is another issue where, if the franchise is set up in the right way, companies will think about that and propose plans. However, if Transport Scotland just says that it wants the timetable to be run as at present, companies will bid on that basis, because they will assume that that is how they will win the contract as that is what Transport Scotland wants.

The Convener: On the 10 per cent turnover in stock since privatisation—

Richard Davies: Sorry, but it is 10 per cent growth.

The Convener: Right. Do you have a figure for the replacement or upgrading of the stock over the period that you mentioned?

Richard Davies: To give a round figure, we have 5,000 new vehicles in the system since privatisation, but the majority of those have simply replaced old trains, so that has not led to capacity growth.

The Convener: What percentage of the total stock is that?

Richard Davies: It is almost 50 per cent of the stock that the ROSCOs took on at privatisation, so there has been a significant amount of new build. In Scotland, there are the 170s. In the London area, south of the river, all the slam-door stock that was around from the 1950s and 1960s has been replaced with EMUs. A lot of money has gone into rolling stock but, overwhelmingly, that has been to replace old trains, rather than to grow total capacity. The pressure that we have nationally is to do with capacity, as we have demand growth of 3 or 4 per cent per annum nationally.

Gordon MacDonald: I will move on to passenger comfort, security and information. You mentioned the growth in passenger numbers since privatisation. Obviously, we want to continue that

modal shift. Do you have any views on how passenger comfort can be improved to meet business and leisure travellers' needs?

Richard Davies: The issue of comfort and service provision is another key part of what the new franchise should be about. However, my sense always is that ScotRail starts from quite a good position compared with other franchises, for historical reasons. In Scotland, a fairly high amount of money has been spent on stations and, in particular, trains.

12:30

There is a lot more to do—earlier you touched on wi-fi and mobile telephony. In that regard, I would gently point out that wi-fi services are quite expensive to provide on trains, as trains zoom around all over the place, which means that the service has to be provided by satellites or the 3G system—it is a bit more involved than the standard wi-fi in Starbucks and so on.

That is all part of the level of service that Transport Scotland wants to buy. A variety of levels of comfort and quality is possible, each of which has a price associated with it. The franchising process can be used to tease out what the best balance, in terms of value for money, might be. However, overall, Transport Scotland has some significant pressures on its budget over time. The appropriate level of service provision and quality in a constrained budgetary environment will presumably be one of the things that it is thinking about.

We have put together the initial industry plan, which some of you might have seen as part of the periodic review process that took place last September. That indicated that, in a best-case scenario, the efficiency of Network Rail and volume growth would reduce support requirements for the ScotRail franchise by about 10 per cent over five years. However, I am not sure whether that will be enough to fulfil the kind of targets that Transport Scotland is working to.

Gordon MacDonald: How best might the safety and security of rail passengers and staff be improved?

Richard Davies: There has been an enormous range of improvements across the piece on safety and security. CCTV is in general use and there has been an increase in visible staffing, as you heard earlier. Some of the train operators have what they call travel safe officers—a variety of names is used—who are police trained, although they are not sworn constables, and are able to provide a visible presence and sort out disputes that arise.

Most of the English train operators have been engaged in a big campaign of improving station security, particularly through gating and the use of CCTV, which helps them to identify trouble before it arises and to keep undesirable people off the system. Penalty fares also play a role in that.

On safety, we have taken a huge leap forward with the train protection and warning system, which has been in place for 10 years. It makes it practically impossible to drive past a red signal. Clearly, there is more to be done. We have a safety planning process that the Rail Safety and Standards Board runs on behalf of the industry. That process continues to identify that some of the leading safety issues are to do with slips, trips and falls at stations, as a result of passengers running around stations. A lot of people injure themselves that way, which is why you see a lot of signs saying, "Don't run" and "Take steps gently".

A lot of progress has been made over time on track safety, as a result of the enforcement of Network Rail's maintenance contracts. There is a much tighter regime in that regard.

The vital signs are improving, but there is no room for complacency on these issues.

Gordon MacDonald: How can the provision of real-time rail information be improved, particularly during periods of disruption or delay, especially for passengers who are already waiting at stations or are on a train?

Richard Davies: Everyone in the rail sector acknowledges that the winter disruption of 15 or so months ago was a dark episode. A lot of the systems and processes that people had thought were there did not really work very well on the day and a lot has been learned by ScotRail and other operators in Scotland as well as at a national level.

The Office of Rail Regulation has agreed with all passenger operators a new licence condition relating to the provision of passenger information that was finally signed off about three weeks ago. As a result, the issue will be formally regulated by the ORR through the passenger licences.

Another slightly more long-term issue relates to the national rail inquiries website, which is run by ATOC and already provides a lot of real-time information. As part of the initial industry plan, we have proposed that the system be upgraded to provide a better information technology backbone across the country that would get information from control centres out faster and would focus on what has become known as one version of the truth. What that means is that, when disruption occurs, there should be a single definitive viewpoint about what the problem is, what is likely to happen and what the resolution should be. After all, during that particular winter period, passengers found it immensely frustrating to have lots and lots of

different sources of information all saying slightly different things.

An initiative to improve the IT architecture behind the scenes is getting under way. This is not my specialist area, but when I looked into the issue I was a bit surprised to find how common it is for station screen displays to be manually fed from a national system known as TRUST by someone with a computer somewhere else in the station. That bit has not been automated over the years, although I guess it is pretty obvious why. Nevertheless, clearly we can do much better in that regard and a programme with that very aim is being planned.

Alex Johnstone: A moment or two ago, you said that the costs of wi-fi provision are relatively high. I find that surprising, given that free wi-fi is being offered even by bus operators who run between Edinburgh and Glasgow some of the lowest cost-per-mile services on the bus network. Is it really that expensive to provide it on trains?

Richard Davies: Wi-fi was pioneered in the east coast GNER franchise; as I recall, it cost about £500,000 to install it on each train. Not only do these trains move fast, but the electrical environment on the routes throws up challenges such as arcing. Nevertheless, as you have said, some commercial operators have addressed the issue and, indeed, the London to Oxford service has a similar provision. Perhaps costs are falling over time but it is more challenging and therefore more costly to provide a standard service.

Alex Johnstone: My real question relates to the Caledonian sleeper service, in respect of which the consultation document suggested potential reductions and significant changes. However, with the potential £100 million in the system for developing the service, refurbishing rolling stock and so on, we have moved on from that position. Would there be any value in separating the service from the ScotRail franchise?

Richard Davies: This is the kind of question that makes me feel old, because it has been coming up for a number of years now—indeed, it has recurred throughout my railway career. Again, we have to strike a balance. If the service were to be set up as a separate train operator, it would be quite small and would run only two trains a day in each direction, all of which raises questions about the appropriate level of management and overhead. On the other hand, in the case of very small operations—I am thinking, for example, of First Hull Trains, the open access operator on the east coast main line—the management team is dedicated to commercialising the service, making it attractive and working with leisure industry partners. In fact, I suspect that that last aspect would be quite an important factor in separating out the sleepers.

As I have said, it is a question of balance. I imagine that it could be done either way, but I politely suggest that Transport Scotland look carefully at how much it would cost to operate the service on a stand-alone basis.

Alex Johnstone: That is all I need to ask.

The Convener: I thank Mr Davies for attending and for the information that he has given us. I suspend the meeting briefly to allow him to leave.

12:40

Meeting suspended.

12:41

On resuming—

Subordinate Legislation

Water Services Charges (Billing and Collection) (Scotland) Order 2012 (SSI 2012/53)

A720 Edinburgh City Bypass and M8 (Hermiston Junction) (Speed Limit) Regulations 2012 (SSI 2012/62)

The Convener: The next item on the agenda is consideration of two negative instruments. I refer members to the cover note in paper ICI/S4/12/7/4 and inform them that no motions to annul have been received. Do members agree that we do not wish to make any recommendations in relation to the instruments?

Members *indicated agreement.*

The Convener: I inform members that there will be no meeting next week. As our next meeting will be on 18 April, I wish everyone a happy Easter recess.

Meeting closed at 12:42.

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

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by APS Group Scotland.

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk

For details of documents available to
order in hard copy format, please contact:
APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk

e-format first available
ISBN 978-1-4061-8575-1

Revised e-format available
ISBN 978-1-4061-8587-4

Printed in Scotland by APS Group Scotland
