



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

ECONOMY, ENERGY AND TOURISM COMMITTEE

Wednesday 2 October 2013

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ECONOMY, ENERGY AND TOURISM COMMITTEE
27th Meeting 2013, Session 4

CONVENER

*Murdo Fraser (Mid Scotland and Fife) (Con)

DEPUTY CONVENER

*Dennis Robertson (Aberdeenshire West) (SNP)

COMMITTEE MEMBERS

*Marco Biagi (Edinburgh Central) (SNP)

*Chic Brodie (South Scotland) (SNP)

*Alison Johnstone (Lothian) (Green)

*Mike MacKenzie (Highlands and Islands) (SNP)

*Hanzala Malik (Glasgow) (Lab)

*Mark McDonald (Aberdeen Donside)

*Margaret McDougall (West Scotland) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Eileen Blackburn (R3)

Chris Boyland (Accountant in Bankruptcy)

Graham Fisher (Scottish Government Legal Directorate)

Nicholas Grier (Adviser)

David Hill (Institute of Chartered Accountants of Scotland)

Claire Orr (Accountant in Bankruptcy)

John Swinney (Cabinet Secretary for Finance, Employment and Sustainable Growth)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

Committee Room 4

Scottish Parliament

Economy, Energy and Tourism Committee

Wednesday 2 October 2013

[The Convener *opened the meeting in private at 09:34*]

10:00

Meeting continued in public.

Bankruptcy and Debt Advice (Scotland) Bill: Stage 1

The Convener (Murdo Fraser): Good morning and welcome to the 27th meeting in 2013 of the Economy, Energy and Tourism Committee. I remind everyone to turn off or switch to silent all mobile phones and other electronic devices.

Agenda item 1 is the continuation of our stage 1 scrutiny of the Bankruptcy and Debt Advice (Scotland) Bill, for which we are joined this morning by Chris Boyland, head of strategic reform, Claire Orr, executive director, policy and compliance, and Elizabeth Wilson, strategic reform team, all from the Accountant in Bankruptcy's office; and by Graham Fisher from the Scottish Government legal directorate. Before we get into questions, I invite Mr Boyland to make an introductory statement.

Chris Boyland (Accountant in Bankruptcy): I will be very brief, because I do not want to take up too much of the committee's time with my introductory remarks. Nevertheless, I want to mention three things, the first of which is the Scottish Government's proposal in the bill to introduce a common financial tool. As the committee will know, there are two financial tools commonly in use at the moment, one of which is operated by the Money Advice Trust and the other by the United Kingdom StepChange Debt Charity, and the Scottish Government has set up a working group to determine which of those tools would be appropriate for use as a single common financial tool in Scotland.

On the basis of analysis that we carried out and shared with the working group—and which we will be happy to share with the committee—the group came to the view that the Money Advice Trust tool was the right one for Scotland for two reasons. First, our evidence showed that the Money Advice Trust tool supported fewer breaches of the trigger figures. That is important with regard to the proposal in the bill for a minimum of 48 monthly payments, because payments must be sustainable

and set at a level that the debtor can manage. I am aware that the Institute of Chartered Accountants of Scotland has suggested that contributions calculated with the Money Advice Trust tool could be as much as 30 per cent lower, but I point out that our research showed only a 5 per cent difference in the monthly surplus.

Furthermore, the Money Advice Trust tool is already widely embedded across the sector. It is used and recognised as an industry standard by the majority of money advisers, the British Bankers Association, the Finance & Leasing Association and the major utility companies, and we think that that is important in considering the potential costs of introducing a single tool. We believe that the more widely used an existing tool is, the lower the costs are likely to be when it is made the common financial tool.

My second point is about the AIB and the potential for conflict of interest. During its scrutiny of our bill, the committee will hear evidence that our proposals will lead to a conflict of interest within the agency and that AIB officials will be making and then reviewing their own decisions. That would be the case only if the AIB's organisational structure remained fixed as it is at the moment. However, it will not. In fact, we have already begun to restructure to ensure clear lines of independence and accountability between AIB officials. In order to embed the debt arrangement scheme process, which was introduced by regulations in June and is already operational and in force, we have started internal reconfiguration to ensure that firewalls are in place and officials can operate with the necessary impartiality. We will be happy to come back to the committee and report our progress with that work.

Finally, I wanted to comment briefly on the provision in the bill to transfer functions from the sheriff court to the AIB. First, it is important to recognise that this is not the first time that something of this nature has occurred; the Bankruptcy and Diligence etc (Scotland) Act 2007 made the same kinds of significant changes. For example, debtor petitions made to the courts became debtor applications made to civil servants at the AIB. We do not believe that you would find much, if any, support for moving debtor applications back to the courts. We have looked very carefully at the administrative low-level decisions made in sheriff's chambers and considered them against an assessment of what can or cannot safely be transferred. For example, we want to transfer the process of recalling a bankruptcy where the debt has been paid in full because that is an administrative matter, but we do not want to transfer other applications for recall as such cases are likely to be more complex—involving, say, an allegation of mistaken identity—and will require a judicial decision.

Most of our work across the piece on this bill has been about striking a balance between debtors' and creditors' needs and taking a view on who has the most to gain or lose, and we have tried to come to a view about what might be the sensible way to proceed. We know that we are not going to please everyone, but we hope that in time, as with the example of the debtor application process, which moved from the courts to the AIB, these changes will become embedded as accepted practice.

The Convener: We are on a slightly tight schedule this morning because we have a lot of business to get through, and I am aiming to finish this session by 11 o'clock. I therefore ask members to keep their questions short and to the point, and it would also be helpful if we could also have short and focused responses. There are quite a number of issues that we want to try to cover.

Prior to the committee's meeting in Irvine on Monday, we held a number of workshops with money advisers, citizens advice bureaux, service users and people with experience of debt issues. The discussions helped the committee members who attended to identify some of the issues around the bill and the impact that they might have, and I want to start by asking you about two or three issues that emerged from those workshops.

We heard that the increase in the bankruptcy application fee from £100 to £200 is acting as a barrier to many people going through the process. I see from the information that you have provided that there has been a drop-off in the number of bankruptcies over the past three or four years, which might seem surprising given the problem with debt levels more generally in the economy. Is that fall attributable to the rise in the application fee? Is the doubling of the fee a barrier to many people who would benefit from going through the process but at the moment simply cannot do so?

Chris Boyland: I will start, but my colleague Claire Orr will probably want to come in.

I have two points to make in response to that question. First, the drop-off over the past few years has been from a previous level that was substantially higher than it had been for some time. We might have the figures with us but, if we do not, we can certainly provide them. Perhaps not surprisingly, there was a significant spike around the period from 2006 to 2008 and the number of insolvencies in Scotland went up substantially. There has been a reduction since then, although I think that there might be other factors at play in addition to the fee increase.

Secondly, the £200 fee for access to sequestration is precisely one of the reasons why

we have introduced the minimal asset process for debtors who are unable to make a contribution and whose circumstances and debt levels are such that we feel that they should have a simpler, less administratively complex and most likely cheaper route into bankruptcy. We are unable to fix the fee for the minimal asset process at the moment, but we expect it to be significantly lower than £200 and probably around £100.

Claire Orr (Accountant in Bankruptcy): The downward trend of insolvencies is common across the rest of the United Kingdom and around the world, so I am not sure that it is directly related to the fee increase. When the fee was increased, we reiterated to the money advice sector the process that we have in place for people to pay by instalments. Had there been a significant drop that was due only to the fee increase, we would have expected to see a significant increase in the number of people asking to pay by instalments, but that did not happen. I am therefore not sure that it is as simple as saying that it is totally to do with the fee. I accept that that might be a factor, but I think that there are other factors, too.

The Convener: Before letting members in on this point, I will ask a follow-up question. You referred to the new minimal asset process that is coming in, for which the limit is £10,000 of debt. My understanding is that the current average debt of clients coming through StepChange Debt Charity Scotland is £14,500, which would suggest that perhaps the £10,000 figure is on the low side. I also understand that, for those going through the low-income, low-assets process at the moment, the average debt is £17,000. Are you confident that £10,000 is the right figure?

Chris Boyland: In comparing the minimal asset process with the existing low-income, low-assets process, our main point is that there is a high number of transfers from LILA to full administration bankruptcy. I think that I am right in saying that the 2012-13 figure was 700-plus transfers out of 3,481 LILA cases, which is roughly 20 per cent of the case load. The principles behind setting the maximum debt level at £10,000 are, first, to set it at a level that will be of use to debtors in the kind of circumstances that we are trying to address through the minimal asset process; and, secondly, to focus the criteria so that we reduce the number of transfers and are confident that the people who go into the minimal asset process and have the benefits of a simpler and less administratively complex route into bankruptcy will remain in that process. We do not want cases that we discover after a short period ought to go through the full administration process.

The Convener: I have one more question before I bring others in. I note that the figure of £10,000 is stated in section 5 of the bill. Is that not

quite unusual? Should that sort of figure not just be left to subordinate legislation?

Chris Boyland: I will defer to Mr Fisher on that one.

Graham Fisher (Scottish Government Legal Directorate): It is fairly common in other debt legislation in Scotland to have figures listed in the bill, and quite often there is also a power to change the figure.

The Convener: Some members who want to come in have caught my eye.

Hanzala Malik (Glasgow) (Lab): Good morning. I, too, have had the privilege of hearing at first hand the experiences of people who have suffered bankruptcy in the past or are presently being considered for it. The fee was a big issue for those people. The jump from £100 to £200 was considered to be very high for people who found themselves in that position. Who makes the decision on whether the fee is reduced or not? Is the figure arbitrary? What is the threshold for it? Further, are there any examples of people who have been exempt from the fee? If people are in the process of applying but cannot pay the fee, that means that their application just sits while their debt continues to grow. Surely that is not a welcome situation for anybody.

10:15

Claire Orr: The fees are determined by the Accountant in Bankruptcy and they are generally based on our need to recover the cost of the services that we deliver. As part of our work, we realised that the cost of delivering the bankruptcy application process to make the award was significantly in excess of the £100 fee that had previously been charged. That is what led to the £200 fee being introduced.

The legislation does not permit anyone to be exempt from the application fee. I think that the Bankruptcy (Scotland) Act 1985 expressly stated that there cannot be a waiver of the fee, but the instalment process helps. I accept that that means that the bankruptcy award cannot be made until such time as the fee has been paid, but that is currently what the law provides for.

Hanzala Malik: Surely that is not a healthy position for the person who wants to be declared bankrupt or for the person who is trying to chase the debt, because the debt is still growing and they know that it is not going to be paid. In the meantime, you are putting people through a lot of anxiety and suffering, simply because they are trying to pay that fee. Can the fee not be recovered afterwards, so that the process can take place and people can start to move on and get a fresh start in life?

Claire Orr: Recovery of the fee afterwards is not possible within the current framework. The application fee has to be made up front and our ministers have required us to continue to work towards that.

Hanzala Malik: I do not feel that that is a good position for anybody to be in. If people are entitled to benefits, there is a system whereby moneys can be taken directly from benefits so moneys would be almost guaranteed. Therefore, why put people through a lot of hardship by making them wait until the fee is paid before the case is taken on? Has nobody considered that option?

Claire Orr: We have not actively considered that option as part of the bill. The bill is not changing the current provision in relation to the payment of fees.

Hanzala Malik: That does not mean that you should not fix something that is wrong. Surely we should be looking at that option as well, in a bid to try to ease the anguish of families where possible.

Claire Orr: I understand your point and I believe that money advisers will often help their clients by allowing them to juggle the priority of the payments that they need to make so that they can make their bankruptcy application. We will consider your point but, at the moment, there is no provision in the bill to change that.

Hanzala Malik: Right, okay.

Dennis Robertson (Aberdeenshire West) (SNP): On the convener's point about the £10,000 ceiling, if the evidence suggests that the average debt is higher than £10,000, does that not preclude people from entering into the arrangement? If the evidence suggests that the limit should be higher, why is it not higher?

Chris Boyland: I will go back to my earlier point about the number of transfers from the existing LILA process to full administration bankruptcy. The average debt level in bankruptcy across the board is certainly higher than £10,000. That is not remotely in dispute.

We are trying to set up a scheme in the minimal asset process that will be targeted specifically at debtors who are unable to make a contribution or who have been in receipt of welfare benefits for up to six months. For that specific user group, we believe that the £10,000 debt ceiling will enable us to easily and correctly target the people who are most in need of help.

We further believe that when the maximum debt exceeds £10,000—when it gets closer to the existing average—there is a greater likelihood that people will have a wider range of creditors. They will be in circumstances where the proper administration of their bankruptcy would be more likely to be the full administration route.

I would like to make one brief additional point about the fee level. The level of fees charged for bankruptcy in Scotland at present is lower than that charged in England and Wales.

Dennis Robertson: I accept what you are saying and the rationale behind it, but I am just not sure that I have quite grasped the £10,000 ceiling level, to be honest. I am not quite sure why it was not £15,000, which would have given more people the opportunity to come via the debt arrangement scheme, because the debt out there may be reflected better in that figure than in the £10,000 figure.

Chris Boyland: I would not necessarily disagree with that, although we must accept that the debt arrangement scheme is something separate and that we are talking about bankruptcy at this point. I am sorry if I am not able to offer any more help, but our approach to the issue is that we are trying to identify a debtor group that is most in need of the minimal asset process. Given the circumstances that people in that group share and which identify them, we think that the £10,000 debt ceiling more correctly identifies them than a higher level would. The point is to target the assistance for the lower-fee, easier-entry scheme specifically at the people most in need.

Claire Orr: It is important to say that those people will not be excluded from the ability to apply for bankruptcy, so if they exceed the £10,000 limit for the minimal asset process, they will still be entitled to apply for the ordinary bankruptcy route. They are not being excluded from the ability to have the debt relief that they need; it is just that it would be through a different route in, rather than through the minimal asset process.

Dennis Robertson: I appreciate that. Thank you.

Hanzala Malik: How does one know that one is entitled to that relief? Are you going to say, "It's from £10,000 to £20,000," or do people just guess what they would be entitled to?

Claire Orr: The role of the money adviser is to help determine the level of debt.

Hanzala Malik: How do they know?

Claire Orr: They would have to have evidence from the individual sitting in front of them about the creditors that they were due—

Hanzala Malik: No, but how do they know what amount they can apply for? You are saying £10,000 in the bill, but how does the creditor or the money adviser know that someone can come in with a higher debt and apply as well?

Claire Orr: I would expect the money adviser community to be well versed in the provisions of

the bill by the time it comes into force. We work closely with the money advice sector, and money advisers would be aware of the different routes available. They would then be able to advise their clients on the solution that was most appropriate to their needs.

Hanzala Malik: So is the bill going to tell us the two figures—the start and end figures—or not?

Claire Orr: The minimal asset process is the only one that has a ceiling on the debt level. The other bankruptcy route is limitless, so regardless of the amount of debt that someone has they would be able to enter bankruptcy.

Hanzala Malik: So you are—

The Convener: Hold on, Hanzala. I think that we are getting a bit confused here.

Hanzala Malik: No, I am not confused. The bill will say that the ceiling is £10,000, yet the witnesses are saying that if people's debts go over that we can still, to a certain extent, take care of them. How do people know the level up to which they can still apply through the ordinary system and what is the next limit? Is it between £10,000 and £20,000, or between £10,000 and £15,000? You are putting the figure in, not the money adviser.

Claire Orr: Only for the minimal asset process. That is the only part of bankruptcy that will have a limit applied to it, and that is for a defined group of people who meet specific criteria—generally, people who are on benefits. That is the only group for which there would be a limit to the debt level. For any other application to bankruptcy, there is no limit. The minimum debt level will be £3,000 for ordinary bankruptcy, but there will be no maximum, and we would work with money advisers to ensure that, just as they are now aware of the criteria for LILA and for ordinary bankruptcy, they would be aware of the criteria for those two different routes in.

Hanzala Malik: So, if I had a debt of £11,000, I could still apply under the normal bankruptcy route.

Claire Orr: Yes.

Hanzala Malik: But the bill says £10,000. How would I know that I am still entitled to apply, even though my debt is above the maximum?

Claire Orr: That is a fair point: ordinary members of the public might not be aware of what exactly is on the statute, but it is the role of the money adviser to advise their clients on the routes that are available to them, based on their circumstances.

The Convener: We need to move on, as we have a lot to get through. Margaret McDougall is next.

Margaret McDougall (West Scotland) (Lab):

We heard evidence on Monday that money advisers were holding files—cabinets full of files on people who were unable to proceed with the LILA route, because they could not raise the fee. That is an issue. Do you have any idea how many people are on hold until they can reach that figure?

Claire Orr: I am not aware of any figures for that. It is quite common for the advice sector to have evidence of that sort, but such evidence is not submitted to the AIB in any formal way, so we do not have any data around that. If the advice community would like to provide us with that evidence, we would be happy to look at it.

Margaret McDougall: If you are saying that the fee will be back down at £100, that would be more acceptable, although the people to whom we spoke did not want there to be a fee at all, as they were on benefits and found it really difficult to raise that fee. As has already been said, their lives are on hold, as they cannot move on and their debts are increasing.

I do not know what evidence you used to reach the £10,000 figure. StepChange says that the average debt that it deals with under LILA is £17,000. Approximately 65 per cent of its clients would not qualify under the new minimal asset procedure. They will be pushed into another process under the Bankruptcy and Debt Advice (Scotland) Bill, which will cost them more. That will stretch out the period over which they will be without credit.

Claire Orr: We consulted on the level at which the maximum should be set. Various views were expressed, with figures ranging from £20,000 to £50,000, and other comments were applied. We do not have the full detail of that with us today, but we can reconsider the process around arriving at the £10,000 figure. It was very much based on the discussions that we had during the process of consultation with our stakeholders.

Margaret McDougall: Okay. I will leave it at that.

Mike MacKenzie (Highlands and Islands) (SNP): I was very interested in what you were saying about the money advice tool and the common financial tool. Am I correct in saying that, when ICAS is submitting its criticism of the approach with regard to the payments that will be made and the calculation, it is not criticising the common financial tool, but it is criticising the money advice tool, as the common financial tool has not been fully developed yet? Am I correct in that assumption?

Chris Boyland: That is not quite the case. The existing money advice trust common financial statement is a tool that is widely in use across the

sector. The working group that we set up has determined that the right course for the Scottish Government to take would be to fix the existing money advice trust tool as the future Scottish Government single common financial tool. When the eventual act is in force, it will, I hope, become the case that the tool that is currently known as the Money Advice Trust common financial statement will be the single common financial tool in Scotland. When the Protected Trust Deeds (Scotland) Regulations 2013 go through, which we hope will happen later this autumn, that will be the case for protected trust deeds. It is already the case for the debt arrangement scheme. That will be fixed consistently across every statutory debt solution in Scotland.

10:30

Mike MacKenzie: I appreciate that harmonisation, which should be welcomed. I absolutely agree with using a single tool, so that we do not have different calculations being used indiscriminately. However, I am a wee bit concerned that you used the words “we hope”. That suggests that there is doubt and that another tool might be used.

Chris Boyland: I am sorry—as a civil servant, I tend not to say that things are absolutely certain to happen until at least a year or so after they have happened. [*Laughter.*]

Mike MacKenzie: The financial tool and how it works are of central importance to how we deal with debt. I was slightly concerned to read in our briefing that the tool involves an algorithm or a series of algorithms. I always assumed that algorithms were the province of theoretical physicists and not mere accountants or money advisers. Will you confirm that an algorithm or a series of algorithms will be used?

Nicholas Grier (Adviser): I used the word “algorithm”; the witnesses did not. They should not be held responsible for that word choice.

Mike MacKenzie: I said that I came across the term in our briefing. I merely ask whether an algorithm is used.

Chris Boyland: To be honest, I do not have the technical knowledge of the tool’s workings to answer that. I understand that it is a means of determining from figures that are input about a debtor’s current spending level what their contribution will be.

I am happy to confirm that, as we have said, the tool has been developed by the money advice sector for use by that sector. The tool does not still and is updated regularly. That is the case whether the workings beneath the bonnet could be

described as an algorithm, spreadsheet or something else.

Mike MacKenzie: Whether or not what is used meets the strict mathematical definition of an algorithm, we are talking about a fairly complex and sophisticated calculation.

Chris Boyland: That point presupposes a little more knowledge than we can bring. It is certainly a calculation.

Mike MacKenzie: Can anybody else on the panel answer questions about the nature of the calculation? We have agreed that it is fundamental to the bill's success.

The Convener: Perhaps Nicholas Grier can provide some background, but I will let Ms Orr answer.

Claire Orr: The tool is founded on research at the UK level. The Money Advice Trust had a gentleman—whose name escapes me—conduct extensive research into the cost of living. The trigger figures were developed from that work. They are the amounts of money that are calculated to be essential for different components of people's lives.

Mike MacKenzie: You can see what I am getting at. How the calculation works is an essential part, but not the only part, of the bill. If we are moving to a single tool—I absolutely agree with that—it is imperative that the right answer comes out of that tool. I am a wee bit disturbed that none of the panel members can give more information. I invite you to write to the committee to give us information. I would like to take the calculation for a test run in real-life scenarios. As ICAS has criticised the tool, it is only right to see some worked examples, to assure us and give us confidence. Does that sound reasonable?

Claire Orr: Of course. We are happy to provide you with further information on how the tool works. It is worth noting that it works in practice at the moment in the debt arrangement scheme. It is the basis on which calculations are made about the sustainable contribution that people will make under that scheme, which can be over a long period. There is therefore clear evidence of how the tool works in practice.

As I said, the tool has the support of the money advice sector more generally. For example, citizen's advice bureau advisers use it in preference to the other tool that is currently used, because it takes a slightly more generous approach to the debtor.

Mike MacKenzie: Okay. Thank you.

Chic Brodie (South Scotland) (SNP): I do not accept that we should necessarily rush to use a single system. Has the system been audited and

tested against what currently happens with debtors?

Chris Boyland: By "system", do you mean the common financial statement?

Chic Brodie: Yes.

Chris Boyland: It is in use at the moment.

Chic Brodie: I did not ask whether it was in use. I know that it is in use. Has it been audited in relation to beneficial outcome?

Chris Boyland: I am not 100 per cent clear about what form such an audit would take. What I can point to is the research that we carried out for the Scottish common financial tool working group, if the committee has not already seen that work. Our research, which supported the group's decision to move towards having the common financial statement as the single tool, involved examining the evidence on the performance of both tools—the common financial statement and the StepChange tool—comparing the tools and looking for evidence against a number of criteria, a key one of which was sustainability in relation to the number of breaches of the trigger-figure ceilings.

Chic Brodie: I will take that as a no.

Would it not be better to test both systems in actuality and look at the outcomes? I am sure that the working group did a diligent job, but at the end of the day the proof of the pudding is in the eating. Can we have an audit of the common financial tool? Can we have a test bed of the StepChange tool, so that we can see what is best for debtors? I am not criticising the common financial tool, but I want to be sure that it works in the interests of debtors.

Chris Boyland: I am sorry if I am not giving you exactly what you are looking for, but I struggle slightly to see why the research that we carried out, which was a head-to-head comparison between the two tools, using data from the system about real-life cases to compare how each tool performed for real-life debtors, would not give you what you are looking for.

Chic Brodie: Let us just leave it there.

I am concerned about several things that you have said. First, you said, "We know that we are not going to please everyone". That might be what happens in the end, but I get concerned when people start off by saying that. Secondly, please do not use analogies with England. We are not in a competition; we are here to serve the customers.

On that basis, can you tell me how many people in debt you talked to?

Chris Boyland: Are you asking about people to whom I spoke personally?

Chic Brodie: Yes, and not just in terms of the consultation. How many people have you actually talked to about the consequences? We have talked about fees, and we heard on Monday that the fee increase has put severe pressure on people. Perhaps I can make it easier for you. How many end users—the debtors—did you meet, and how often did you meet the AIB?

Chris Boyland: Sorry, I did not grasp the second part of your question.

Chic Brodie: How often did you meet the Accountant in Bankruptcy in the context of the development of the bill?

Chris Boyland: We are the Accountant in Bankruptcy.

Chic Brodie: Sorry, in terms of—I am getting confused. Let us take the first part of the question. How many clients did you actually talk to?

Claire Orr: I understand the point that you are making. We try hard to reach out to as many people as possible. During the public consultation, I think that we received only one or two responses from members of the public. It is generally a difficult issue on which to engage people. That is why we work with the money advice community, which can tell us the views of its clients. We do not have a direct conversation with people.

Of course, the AIB speaks every day to people in debt who make bankruptcy applications and applications for the debt arrangement scheme, so we understand the challenges that people face, but we have not had a direct conversation with a group of indebted individuals, because it is quite difficult to get people to agree to come and speak to us in that forum.

Chic Brodie: We did not have any difficulty with that.

Claire Orr: In the past, we have tried to engage with people and it is quite difficult. For example, through our debt arrangement scheme marketing campaign, we have tried hard to get case studies of people who have experienced debt, and it is extremely difficult to get people to come forward to engage with us.

Chic Brodie: Maybe I am cynical, but if we increase fees and limit the debt level, that will mean increased revenues and a lower volume. What is the ethos? What is the AIB's objective as far as the bill is concerned?

Claire Orr: We have some very clear objectives. The first principle is ensuring that everyone has access to fair and just processes.

Chic Brodie: But you have not talked to people who are indebted.

Claire Orr: We have spoken to their representatives and have had an extensive consultation on that basis. We have listened hard to the points that were made through that consultation and have made a number of changes to the bill, relative to the position from which we started in the consultation. We have reflected the views that were expressed by the representatives of people in debt and those who deal with the insolvency system more generally.

Chic Brodie: I have no more questions.

The Convener: I am conscious of time. Other members want to come in, so we need to move on. If we have time, we will come back to some of those points.

Alison Johnstone (Lothian) (Green): Earlier, we discussed the obstacles to becoming bankrupt, such as people having difficulty finding the cash to make the initial payment. The AIB and some debt advice centres request from creditors a final balance of debt. When the committee was in Irvine on Monday, we got some feedback that suggested that it can sometimes take quite a while to get hold of that final balance of debt. Meanwhile, the debtor is accruing even more debt. Are any steps being taken through the bill to address that? Will there be a cut-off date by which creditors must comply—a date by which they must provide that information?

Chris Boyland: Yes, is the short answer. The bill will introduce a fixed period for creditors to submit their returns. From memory, I believe that it is six weeks.

Claire Orr: The period is 120 days.

Chris Boyland: I beg your pardon. There will be a fixed 120-day period during which creditors will need to submit their returns.

Alison Johnstone: That is a relatively long time. I would have expected the creditor to have that information to hand and to be able to provide it in a more timely fashion. Why has 120 days been agreed on?

Chris Boyland: Creditor organisations will probably say that they would need at least that length of time. To an extent, that is a question for them; their representatives will give evidence to the committee.

In part, the question goes back to the point that I made at the end of my introduction about not being able to please everybody all the time. We have not introduced the 120-day period as a concession that we will fail in the objectives that we are setting for ourselves in the bill; we have brought it into the conversation simply to acknowledge that, by its very nature, insolvency involves a balance between the desires, needs and rights of the creditors and the rights of the

debtors. It will always be difficult to strike a balance that pleases both sides.

We feel that 120 days is the right deadline. Some organisations and representatives, such as members of this committee, might say that 120 days is giving people too much time. I am certain that representatives of creditor organisations will say that it is minimal and that some of them will not even be able to manage that.

10:45

Claire Orr: That timescale does not impact on the award of bankruptcy being made. The creditors' claims will be requested after the award of bankruptcy is made. The person needs to know only that they have a debt with a particular creditor in order to apply for bankruptcy. The final position would be confirmed through the 120-day claim process—the person in debt is not disadvantaged at that point.

Alison Johnstone: I have two further questions.

The Convener: Make them brief, please, Alison.

Alison Johnstone: You have suggested that we are seeking to strike the best balance between the needs of creditors and debtors. With regard to the four-year period for debtor contributions, ICAS has suggested that there might be breakage and, more likely, that debtors will be unable to sustain payments for that period. What research has been carried out in order to put that proposal forward?

Chris Boyland: That takes us back to Mr MacKenzie's point about the fundamental way in which the common financial tool determinations interact with other parts of the bill. In this instance, they interact with the proposal for a minimum of 48 monthly payments. ICAS has provided evidence suggesting that that will lead to an increase in breakage rates.

Our point is that the reason why we are fixing the common financial statement as the tool that will determine the amount that is being paid on each of those 48 monthly payments is because the evidence suggests that that will determine a more sustainable level of contribution—the 48 amounts will be at a level that the debtor can manage.

Alison Johnstone: My final question is on the Accountant in Bankruptcy. Is it genuinely able to review its own decisions? I have concerns about public perception—we have heard about firewalls and so on. When an organisation reviews its own decisions, the public find that less than convincing. Did anyone consider introducing an independent review of those decisions?

Claire Orr: We originally considered whether to set up a panel, but decided that it would be preferable to have control of reviewing in-house. However, we have taken steps to separate the functions of the operations of the agency from its policy and compliance elements; they will operate as two distinct parts of the AIB. There would be no crossover between the original part of the process and the review part.

The Convener: Does Mark McDonald have a question on that?

Mark McDonald (Aberdeen Donside): My question is on a different topic.

The Convener: Okay. I have members who have brief supplementaries on the same issue.

Chic Brodie: On Monday, one of the things that cropped up in the conversation was the role of creditors and the lack of awareness about the DAS among companies that do not come under Scottish legislation. Another issue was about determining exactly what is owed to a particular creditor because the creditor balances are not made readily available. Is there anything that we should do to ensure that when someone enters bankruptcy, they know exactly what the target is?

Chris Boyland: That goes back to the provision in the bill to fix the 120-day period for creditor returns, which speaks to the second part of your question, about getting information from creditors about how much money they think they are owed.

On the first part of your question—on the visibility of Scottish legislation to UK organisations and lenders—I cannot comment much on that other than to revert to our continuing efforts to engage with the representative bodies of those organisations whenever we can and to ensure that they are aware of the changes that we are making.

Claire Orr: I will add to that briefly. We have a stakeholder group that involves representatives of the creditor sector. We have the Royal Bank of Scotland and Lloyds Banking Group on our general stakeholder group. They have been with us on the journey of reforms that we have been making and they are well aware of the changes that we are making. We also extended our reach further and have visited some of the major creditors in England to ensure that they understand.

On DAS, there was a particular effort made when the 2011 changes came in. As part of that process, we now have much stronger engagement with creditors across the whole UK. They are on our information technology system, which means that interaction with them is now much easier than it was. Progress still needs to be made, however, and we continue to try to improve.

Margaret McDougall: On the discharge of DAS that has been extended to four years, there is also a six-year period after that during which a person who has been bankrupt cannot get credit, which makes the total period 10 years. Is that right?

Claire Orr: It is perhaps not quite that straightforward in the sense that it is a matter for creditors and credit reference agencies how they risk-score lending to people beyond the period of their bankruptcy. Someone who is in the debt arrangement scheme or is insolvent and bankrupt cannot obtain credit during that period. What happens beyond that is a matter for creditors to determine. In practice, people will generally find that their access to credit can be restricted for approximately six years.

One of the aims of the financial health service that we are trying to develop is for us to work with creditors and credit reference agencies to distinguish between people who have been on a debt arrangement scheme and paid back all that they owe, from people who have been in bankruptcy, and to get them to try to have more lenient credit-risk scoring for people who have paid back than for those who have not. We are at the very early stages of those discussions, so it is too soon to say whether the practical impact on people will change.

The Convener: I am sorry Margaret, but we have to move on; we are very short of time. Hanzala, do you have a quick question?

Hanzala Malik: On people who want to register as bankrupt, I have brought up the issue of money advice, and I was given an explanation that led me to believe that if a person fills in a form or is helped to fill in a form, that is in itself legal advice. I have since been told that that is not the case and that someone would require legal advice under the new legislation. I suggest that rather than say that someone must have legal advice—that it is mandatory—the bill should use the word “desirable”, so that if anyone does not have legal advice in the full sense of the word, it will not stop them from registering as bankrupt, and they can get legal advice thereafter. That would particularly help first-time applicants.

I can understand why legal advice would be a must for people who have gone through the process before because they are obviously not getting it, but rather than say that first-time applicants must have money advice before they apply, it should be desirable. What is your opinion of that?

Chris Boyland: We continue to stand by what we have said previously. We believe that for people who have difficulty with the application process, whether for reasons of language or for other reasons, advice is the answer. The

availability of, access to and receiving of high-quality advice from an approved money adviser is the solution that will see them through those difficulties.

Hanzala Malik: So, they can continue to be in debt for the duration.

Chris Boyland: No. We do not believe that that would be the case. We believe that the requirement to have advice and access to advice will help them through their debt problems.

The Convener: We need to move on, Hanzala. We are short of time and I still have to bring in Mark McDonald.

Mark McDonald: Am I correct in saying that some debts can be written off and will not be pursued by creditors when a person enters bankruptcy?

Chris Boyland: Bankruptcy itself is a debt relief measure.

Mark McDonald: What I mean is that during the bankruptcy creditors will, obviously, pursue debts through asset recovery and so on. Is that correct?

Chris Boyland: Entering into sequestration is a means to put a halt to pursuit and to arrestments and suchlike.

Mark McDonald: What I mean is that, at the moment, a number of people who find themselves in debt trouble will seek high-interest loans as a means of alleviating their immediate debt problem, but obviously that simply stores up bigger problems for the future. At the point at which the person enters bankruptcy, what currently happens to those high-interest loans?

Chris Boyland: Such loans are included with the rest of the debtor’s debts and are given no preference. Where the debtor is able to make a contribution by way of repayment, those debts would be treated along with the others.

Mark McDonald: The point that I am trying to get to is whether there is scope within legislation for those debts to be defined in such a way that they would be written off and would not be pursued at the point of bankruptcy.

Claire Orr: In effect, that is what would happen. If someone becomes bankrupt, their assets are conveyed to a trustee whose job is to realise assets to pay back creditors. There may or may not be anything realised to pay back creditors, but at the end of the bankruptcy those debts are written off and cannot be pursued by the creditors.

Mark McDonald: At the moment, there is no incentive for due diligence on the part of high-interest payday lenders, which actively lend to people with poor credit ratings. High-street lenders such as banks will not touch those people, but

payday lenders are happy to lend high-interest loans to them. Is there a means through bankruptcy legislation by which that could be addressed? Obviously, payday lenders might apply more due diligence if they were aware that their debt would be treated somewhat differently under bankruptcy legislation.

Claire Orr: Are you asking whether those debts could survive instead of being discharged as part of the bankruptcy?

Mark McDonald: That is correct.

Claire Orr: We consulted on whether some debts should survive the bankruptcy. We considered whether debt that was incurred in the 12 weeks prior to the bankruptcy should be excluded from debt relief, but that did not find favour among any sector in the consultation process, so the proposal was dropped. The main reason for that is that bankruptcy is supposed to provide a final solution that, by writing off the debt, gives people the fresh start that they need. Also, such a proposal might just create a preference for a group of creditors to which we might not particularly want to give preference. For those reasons, such a provision was not included in the bill.

The Convener: We are very short on time, but we have not yet touched on the provisions on financial education, which I want to get on the record.

In our workshops on Monday, we heard some evidence on financial education, which everyone agrees is a very sound concept. If we approach the issue in schools, we can make people aware of issues such as annual percentage rates and the importance of budgeting. However, the bill seems to be closing the stable door after the horse has bolted, in that the provisions are about providing financial education to people who are already insolvent. Evidence that we heard on Monday suggested that people who live on very low incomes, for example on benefits, are actually very good at balancing budgets and understand the issues around financial matters. For them, often the problem is not a lack of financial education but their circumstances—for example, a crisis that comes along and tips them into a problem with debt. What evidence is there that offering financial education will make any difference?

11:00

Chris Boyland: Perhaps I can start and then colleagues can come in.

First, the national standard financial capability education module will not be restricted to the issues that people might immediately think of,

such as budgeting and household management. The potential exists for it to go wider than that, for example, to teach people how to switch utilities provider.

It is easy to fix an idea of what financial capability education will be, but my point is that it is not fixed at this stage. We are working with Money Advice Scotland and the financial sector to develop the financial capability national standard in order to make sure that those who have the most experience of people with debt problems design the national standard, which will create a preventative solution for assisting people who are in debt.

The second point—which I will make quickly—is that although we envision its use in money advice and in a bankruptcy process, once there is a national standard to govern how a certain topic can be taught, or once people can be trained, there is no reason why it cannot be used in other circumstances as well, for example in early years education.

The Convener: Will you explain very briefly to me the process whereby somebody who has been declared bankrupt and has to go through this financial education module will be assessed or tested on it? What are the sanctions if they do not comply?

Chris Boyland: We certainly have not put anything in the legislation that speaks of sanctions for non-compliance. I do not want to seem to bandy semantics, but I imagine that the module will be such that it will be clear whether or not the person has worked through it. There need not necessarily be a test.

The Convener: What happens if the person does not work through it?

Chris Boyland: The process is not fully worked out. The module would be part of the time that they spend with their adviser, who would help them through the process, who will have identified their needs and who would, I imagine, continue that conversation with them.

Claire Orr: It will be a condition that the individual is required to comply with what the trustee asks them to do, which would be to complete the programme of education. They would be encouraged to complete the programme because to do otherwise could be linked to non-co-operation in their bankruptcy.

It is also important to say that the module will not be mandatory for everyone in bankruptcy. It will specifically for people who have been bankrupt before or who have been in a protected trust deed or a DAS before. It will not be for every single person who comes through insolvency, but will be used where we identify a person in repeat

bankruptcy who might therefore have greater need of assistance.

The Convener: I will take very brief supplementary questions from Margaret McDougall and Dennis Robertson, and then we need to end the session.

Margaret McDougall: Who is expected to provide the education? I spoke to money advisers on Monday and they did not know who would be asked, but they expected that it may well fall to them and to the likes of citizens advice bureaux and credit unions. Has an assessment been done to find out what the additional impact of this bill will be on money advisers and the voluntary sector that provides advice services to clients?

Claire Orr: We have worked closely with the money advice sector to develop the national standard and the module, so that the advice sector will use it in the future. We envisage that, as part of their ordinary engagement with their clients, the money advisers will facilitate the availability of the programme of education, which may be delivered online or through other means. We do not envisage it taking up much more of the money adviser's time as they will already see and have a relationship with a client.

Margaret McDougall: There is already a huge pressure on money advisers and citizens advice bureaux. This programme will add to that pressure. We heard that people cannot get through on the telephone when they try to get in touch with money advisers because they are so busy and that there are queues out the doors of citizens advice bureaux because of other issues in communities. How will they cope with all this additional work with no more resources?

Claire Orr: We do not think that the measure adds a new burden on the advice sector, as we believe that the relevant group of clients will already be known to the money advisers, so it will not increase their work. However, I understand your point and we can look at the wider role of organisations such as credit unions in building people's financial capability.

It is useful to remember that, in the consultation, there was significant support for financial education to be part of the process. Respondents clearly suggested that organisations such as local authorities and money advice professionals are ideal to deliver such a service. That is the reason why we have taken this approach.

Dennis Robertson: You have partially answered my question in saying that the process will not be mandatory for everyone. I am sure that you see the process as habilitative, but will it be individualised? Will the training programme be based on individual need, or do you foresee a set programme being followed?

Claire Orr: At this stage, we see it being a set programme with a module being developed. There might be more than one module, so there could be scope to cater for different situations. At this stage, the first step is to develop the national standard, which will set out the principles and the key things that the programme of education will cover.

Dennis Robertson: As the convener said, there does not appear to be any sanction, but do you envisage there being one? You said that not completing the programme would potentially be breaking a contract between the individual and the trustee.

Claire Orr: I guess that the ultimate sanction is that the person's discharge could be delayed if they do not comply with what their trustee asks. Their co-operation is needed to achieve their discharge.

The Convener: We have run a little over time, but you will appreciate that we had a lot of ground to cover. We are grateful to all the witnesses for coming to help us with our scrutiny of the bill. I am sure that we will engage further with you in the coming weeks.

I suspend the meeting briefly to allow a changeover of witnesses.

11:06

Meeting suspended.

11:11

On resuming—

Subordinate Legislation

Protected Trust Deeds (Scotland) Regulations 2013 [Draft]

The Convener: Item 3 is to take evidence on the draft Protected Trust Deeds (Scotland) Regulations 2013.

I welcome David Hill, partner with BDO LLP and previous chair of the Institute of Chartered Accountants of Scotland's insolvency committee; and Eileen Blackburn, partner with French Duncan LLP and chair of the Scottish technical committee of R3, the Association of Business Recovery Professionals.

Before we get into questions, do you want to say something by way of a brief introduction?

David Hill (Institute of Chartered Accountants of Scotland): I am conscious of your timetable, so I will literally take a few seconds.

You have a written submission from ICAS. We support many of the provisions in the regulations, although we have concerns about one or two particular ones and quite a few technical issues, although this is probably not the place for them.

I draw the committee's attention to one matter that is of crucial importance, which is harmonisation and the timing of the introduction of the measures. The intention is to introduce the trust deed regulations at the end of November, but the new sequestration procedures will not come in until 18 months thereafter. We have a significant concern that, because the regulations will change the period of payments for trust deeds to four years but the period will remain at three years for sequestrations, a lot of people will be recommended that they would be better with a sequestration than a trust deed. I am not convinced that that is what the Government's policy is or should be, but that is a likely outcome.

Eileen Blackburn (R3): I echo my colleague David Hill's comments. We are broadly supportive of the policy objectives of the regulations, but we have a fear that some of the proposals will not in fact serve to meet those policy objectives. We have concerns about the timing, as David said.

We have given a written submission so, in the interests of brevity and getting through the committee's questions, I will leave it at that.

The Convener: Mr Hill, you expressed your concern that, because of the timing issue and mismatch with the Bankruptcy and Debt Advice (Scotland) Bill that we have just been discussing,

more people will be pushed down the sequestration route rather than use protected trust deeds. Briefly, what are the advantages of protected trust deeds for debtors and creditors?

David Hill: The advantage of trust deeds for creditors is that they generally produce a higher return, because of the increased costs of sequestration.

From the debtor's point of view, there is not a huge difference. Some people think that there is a bigger stigma with bankruptcy as opposed to trust deeds, but when we get down to the practical effect, there is little difference. It is just a question of having two different procedures. The trust deed is a voluntary procedure with the creditors' agreement, whereas sequestration is not a voluntary procedure. The differences are reasonably limited. It is usually a wee bit worse for creditors when there is a sequestration.

11:15

The Convener: Is it your view that the draft regulations are so fundamentally flawed that they need to be taken away and redone, or are they fixable?

David Hill: I think that they are fixable. We believe that it would be best if the regulations were brought in at the same time as the sequestration procedures. We do not think that there is anything substantially wrong with the current trust deed procedures, so there is no urgency to bring in the regulations, although some of the changes would be welcome. If the mismatch was three or four months, that would be fair enough, but 18 months is quite a long time. A lot of people will go through the process in that period.

The Convener: Your concern is really about the timing.

David Hill: That is our major concern.

The Convener: If the regulations were to come into effect more in line with the provisions of the bill, that would alleviate your principal concern.

David Hill: Yes.

Mike MacKenzie: The evidence that the committee recently received from the Association of British Credit Unions paints a picture that insolvency practitioners profit unduly from the misery of both debtors and creditors. Would you go along with that view?

David Hill: I do not think that you would expect me to agree with that. We are professionals doing a job, and we have to be paid for doing the job—that is our argument. If fees are deemed to be unfair, there are procedures to deal with that but, as with anything, quality advice and provision has to be paid for.

Mike MacKenzie: You would have no hesitation, then, in sharing with the committee, perhaps in writing, an indication in global terms of fees charged against hours worked on protected trust deeds.

David Hill: I am sure that that could be obtained. There are details of the quantum of fees in the AIB's annual report, but I do not know whether a breakdown of the total value of the fees per hour would aid you too much. Every firm has different chargeable rates per hour, so it would be difficult to get a meaningful figure. I appreciate that the fees seem high to some people.

Mike MacKenzie: I find it hard to understand why accountants, of all people, would have difficulty in producing such figures, which would let us gauge whether the Association of British Credit Unions is being unfair in its assessment or whether it is reasonable. Surely you would wish to refute its view with hard numbers rather than without any evidence.

David Hill: It is just that an average would be very much that—an average. That is all that we could produce in global terms. As I said, each firm has its own rates, and some firms will do work for considerably less than others.

Mike MacKenzie: You are really just repeating what you have said. Am I correct in saying that you are unable to refute that point of view in hard numbers?

David Hill: To be honest, I think that it is more of an opinion—and I think that it is unfair.

Mike MacKenzie: That is why I am saying that I would expect a profession that deals with money to be able, perhaps more than any other profession, to refute the argument with hard numbers.

David Hill: The average fee for most trust deeds, as per the report, is just over £6,000. Some people will view that as atrociously high and some people will think that it is reasonable. I am not sure what more can be—

Mike MacKenzie: I am sure you will agree that the figure is meaningless unless you also indicate the number of hours that insolvency practitioners are working. Unless you correlate the fee against the number of hours worked, it is meaningless.

David Hill: That is possibly something that we could provide.

Mike MacKenzie: I invite you to write to the committee and give some hard numbers so that we can form an opinion on whether the Association of British Credit Unions is being fair. Will you give an undertaking to do that, with some hard numbers attached?

David Hill: I can certainly look at trying to provide that. I cannot give an undertaking that we will be able to, but we will try to get the information. I suspect that it depends a wee bit on timescale, because we would probably need to get it from our members and that may take some time. I do not know whether it would be possible to provide it in the next week or two, but we could certainly do it at some point in the future.

Mike MacKenzie: I find it very disappointing that you have come to the committee without those numbers. I would have expected you, knowing of the range of views that attend the issue, to have come to the committee with them at your fingertips. I would be grateful—I am sure that the other committee members would, too—if you were able to supply some meaningful numbers to back up your disagreement with the Association of British Credit Unions.

Eileen Blackburn: The information is readily available on a case-by-case basis. In fact, it is provided at certain levels of fees in what is described as a statement in insolvency practice 9—or SIP 9—schedule, which describes the number of hours that have been spent in any given case and the different headings under which the work has been carried out.

Attempts have been made in the past to collate the information, but you may be unaware that there are a number of insolvency practitioners who carry out such work throughout Scotland. We are regulated by different bodies, and the information is not collated as a matter of course. It has to be obtained on a specific request. That is why it is not as readily available as you might expect it to be.

David Hill: The issue is getting the exact information that you want. Various different grades of staff are involved in each case and each case is different. If you want to get an overall average figure, I do not think that that information will come up with too much. We could easily get firms' average charge-out rates, but I am not sure that the details of individual cases will help too much.

Mike MacKenzie: I am sorry, but I am now a bit confused. The Association of British Credit Unions has been pretty unequivocal in the terms in which it has written to the committee. It has been critical of insolvency practitioners and suggested that they benefit to an undue degree at the expense of creditors and debtors. I am now not sure whether the information for you to refute that view is or is not available.

I am trying to give you the opportunity to refute that view but I suggest that, if you are going to refute it, you need to do so with some hard numbers. If you are just saying that you refute that view and we should take your word for it, that does

not take us much further forward. Who does the committee believe?

I invite you to supply us with hard numbers to refute the association's view, but I am now unclear as to whether that is possible.

Eileen Blackburn: It depends on the degree of detail that you are looking for. As David Hill said, figures are produced in the Accountant in Bankruptcy's annual report, which is readily available.

I guess that the question will always be somewhat subjective. Perhaps creditors have a view that they are receiving value for money in terms of dividends that they receive compared with the fees that are charged, and perhaps they do not.

Mike MacKenzie: Indeed. I merely say that you should supply such information to the committee as you think will convince us.

David Hill: We will certainly do that.

The Convener: For clarity, I think that where Mr MacKenzie is coming from relates to the aspect of the regulations that concerns restrictions on fees chargeable. What is your general view on that part of the regulations?

David Hill: The regulations do not have a restriction on fees. All that they say is that there is a set fee. They do not restrict what that fee is, which would still be for the creditor to determine.

What happens at the moment is that the trust deed starts and the trustee writes to all the creditors setting out the debtor's asset and contribution position, what he can afford to pay over the three years or whatever the period is, and what will be collected. The trustee then tells the creditor his fee for doing that, whether it is £4,000, £6,000 or whatever he proposes to charge, and the creditor has a right to object and say, "That is too much". Credit unions usually object, but most creditors do not because they recognise it as being a fair amount.

The regulations do not change that process; they just change the method and break down the fee into two separate parts. The first is a fixed fee, which could be anything from £2,000 to £6,000 or whatever the trustee proposes, and the second is a percentage on realisations—a percentage of how much the contributions are if any assets are realised. There will not be a change in the process; there will be just a slightly different method.

Alison Johnstone: I would like to touch on the extension of the payment period. The extension from 36 to 48 months mirrors the period proposed in the Bankruptcy and Debt Advice (Scotland) Bill, but there seem to be differing views on whether

that is a good thing for both creditors and debtors. That is the case in relation to the bill in particular, but it is a comparison worth making. Money Advice Scotland believes that the new period is too long and has raised concerns that, given that wages are at the same level that they were at two years ago, the extension is perhaps a bit punitive. The Association of British Credit Unions welcomes the extension and thinks that it discourages any perception that it is about a quick escape from debt, but ICAS has concerns that it might not deliver in the way that is expected. Do you have any information on the rationale behind extending the payment period, and do you have any concerns about the extension?

David Hill: We do not have any background to the rationale behind the proposal other than that it will make all the processes the same, as four years is proposed for sequestration and trust deeds. There are varying views on that. ICAS's written submission suggests that there is more likelihood of breakage, although a number of people in ICAS do not necessarily agree with that—you will never get 10 people to agree on the same thing. I believe that the longer a payment period is, the more likely it is that breakage will come. That is not to say that a payment period of four years will not work, but the longer the period is, the more people's circumstances change and the more likely it becomes that a breakage will happen. I think that you will also see that in the debt arrangement scheme, which has had big numbers going into it only in the past two or three years. I suggest that, in three of four years' time, you will see a large number of those arrangements failing because people cannot keep up the payments.

One of the issues that has been raised is the fact that a large number of the trust deeds—it has been about a third for the past six or seven years—do not pay any dividends. In many cases, that is a symptom of people breaking their agreement and not being able to pay even for three years. Whether that 30 per cent would increase to 40 per cent if the payment period were extended to four years, I honestly do not know. On balance, you might get more, because if 60 per cent pay for four years, you will get more than if 70 per cent pay for three years. However, there is no clear-cut answer.

Alison Johnstone: Does Eileen Blackburn have a view on that?

Eileen Blackburn: I have nothing to add to that. It seems to be human nature that people are able to stick to the payment over three years but, the longer it goes on, the more difficult they find it to adhere to the agreement.

Alison Johnstone: It may be that we would not know until the proposal went ahead.

David Hill: You would not know for a long time, as the payment period would start in the next year or so and it would be another four years before you would be able to get figures. It would be quite a long while before you had any hard facts to show whether the change had benefited people.

Chic Brodie: I will ask about the AIB's role as both the Scottish Government's policy adviser and the supervisor of debt management and debt relief services. Is there is a conflict of interests, given the oversight that it has of not just standard debt management, but protected trust deeds?

David Hill: Yes. ICAS's view is very much that there is the potential for a conflict of interests and I suspect that, as someone mentioned in the previous evidence session, that would be the public's perception of it. As has been said, even if an organisation that reviews its own decisions has Chinese walls, those walls might not apply in the canteen or wherever. In most cases, it might not be a major problem, but there is definitely a perception out there that reviewing your own decisions is never the best way to go.

11:30

Chic Brodie: So the proposal to bring what has been called a protected trust deed review board is, frankly, a nonsense because it still comes under the same umbrella.

David Hill: I would say so.

Dennis Robertson: The previous witnesses initially suggested that the process that will be in place, which is work in progress at the moment, will be independent, although they subsequently reverted to the term "impartial". Do you not believe that the AIB could be impartial?

Eileen Blackburn: In general terms, conflict of interest always comes down to perception. In my experience, if the question of conflict is raised at all, there probably is a conflict. I hesitate to say unequivocally that it would not be possible to separate completely the responsibilities within the Accountant in Bankruptcy, but I believe that a problem with perception will remain.

David Hill: I do not doubt that separate individuals in the AIB will deal with appeal decisions, but there will always be that perception that we have been talking about. I suspect that, if a person's organisation rather than someone else has made a certain decision, something ingrained in that person will make them more likely to go along with it. It is simply human nature. Even if you are trying to avoid it, it is still the road that you are liable to go down.

Dennis Robertson: What is your preferred recommendation?

David Hill: We do not think that most of the things that are being added to the AIB's tasks, particularly the trust deed scenario, are totally necessary. As has been said, the trust deed is a voluntary contract between creditors but, under these proposals, the AIB has the right to refuse trust deed protection status even if the creditors have agreed to it. We cannot understand why the AIB should have that right and, indeed, the right to refuse a debtor's discharge when it has already been agreed by creditors. It is not a question of whether we need a separate body to look at the issues; the fact is that some of these decisions are not required to be decisions.

Chic Brodie: I apologise for not asking this question earlier, but it seems to me that the AIB's role is becoming a matter of some concern. As I understand it, it has the power to audit insolvency practitioners' accounts in relation to their work on a particular trust deed and fix their fees. As you mentioned, we have also been advised that the AIB will, under the draft regulations, be able to prevent the trust deed from becoming protected, but it is unclear how such objections will be handled. Has the AIB too much power in its control over IPs? I am not seeking to discredit AIB personnel but, in general, IPs are required to undertake extensive training and have major qualifications that might not necessarily be available in the AIB. There will, of course, be people in the AIB of equivalent status, but I think that we are talking here not just about conflicts of interest but a conflict between IPs and the AIB in which the poor debtor is somewhat forgotten about.

David Hill: I am not sure that I could have put it any better.

To be honest, ICAS feels that at almost every opportunity legislation adds to the AIB's powers rather than anything else and, as time goes on, it is getting more and more of them. For example, other measures in the regulations include the requirement to seek directions from the AIB. As you said, insolvency practitioners have gone through a long examination process and being required to ask AIB personnel, who are not in general as well qualified, for directions on what to do does not seem to us to be correct. If you need directions, you will be dealing with a complex matter and should therefore go to court. We do not think that going to the AIB will add anything at all. There are a number of such areas about which I would certainly agree with you.

Chic Brodie: Where do the debtors and creditors, who, after all, are the people we are trying to help, come in all of this? We are being saturated with process and controls. I asked the earlier panel about consultation with the people that the legislation has been designed to help, but

we do not seem to be helping anyone other than those involved in the process.

Eileen Blackburn: We need to bear it in mind that we are talking about a voluntary trust deed, which is for the benefit of creditors and is, as its name suggests, contractual and voluntary in nature. The option has been available to Scotland's citizens for a number of years now and, as you will see from the statistics, has been widely used. We feel that another layer of oversight in which the AIB can step in and give directions, object to or not agree to register a trust deed as being protected, and then have intervention at the back end with regard to the discharge process, is inappropriate and unnecessary.

David Hill: You are right that all this regulation is to a certain extent taking the focus away from the two main people in the process: the debtor and creditor. By signing the trust deed, the debtor has made their decision at the start of the process and should have been properly advised in that respect; the creditors then have the complete right to accept it or not. For some reason, however, the AIB seems to feel that they are not performing their role properly, which, I have to say, I do not understand.

Chic Brodie: I wish and hope that at the end of the day the people who matter in this process are the debtors and creditors, not those exercising the control that you have just referred to.

The Convener: Unless members wish to raise anything else, I will ask two final questions.

At the beginning of this session, Mr Hill told me about the advantages of protected trust deeds. However, ABCUL does not share your view; in its submission, it says:

"credit unions ... strongly object ... to PTDs which—rather than channelling the funds recovered to creditors—deliver a substantial fee to the trustee"—

namely you and your members—

"and little or nothing to creditors."

It also believes that protected trust deeds

"have become open to abuse, both as an 'easy' means for debtors to escape their financial obligations, and as a profitable product for debt management companies and insolvency practitioners to provide. The system has become grossly imbalanced against the interests of creditors."

It seems to think that the whole thing is a racket.

David Hill: I know that ABCUL holds that view but, as I have already pointed out, the trust deed can be protected only if the creditors agree to it, which is what happens in the vast majority of cases. I am aware of credit unions' objection to PTDs, but normally the credit unions are very small creditors and other creditors accept PTDs.

To some extent, you cannot have the tail wagging the dog. The credit unions are entitled to their views, which I respect, but the same view is not held by a majority of creditors, who, I repeat, ultimately have to agree to the trust deed.

Mike MacKenzie: Do you not agree that credit unions have over many years built up a great deal of experience of dealing with these situations, while individual creditors who are unlucky enough to lose money often approach such situations from a fairly naive perspective and are therefore not always in a position to apply the kind of scrutiny that credit unions, with their experience, can bring to bear?

David Hill: I cannot accept that. The vast majority of creditors are not individuals but high street banks and other such organisations. In fact, things are even more concentrated in that the majority of creditors in the trust deed process use agents—two agents in particular—who deal with 90 per cent of the debt in trust deeds and have their own detailed rules about what they will and will not accept.

Mike MacKenzie: Are you asking the committee to place a higher value on the integrity of the high street banks than on that of credit unions?

David Hill: Not at all. As I said, the credit unions are entitled to their view, but it is only one view. I am sure that if you spoke to other creditor organisations they would give you their views. My point is that there is a range of creditors to listen to, not just the credit unions.

The Convener: We are getting towards the end of our time, but I have one final question. As you might be aware, the committee has no power to amend the regulations. We will take evidence from the minister next week and must report to the Parliament by 11 October. Our choice is to recommend that the Parliament either accept or reject the regulations. Given that we have no power to amend, what approach would you advise us to take? Should the regulations go forward or should they be rejected?

David Hill: Because of the time issue, I would suggest deferring them rather than rejecting them.

The Convener: We have no option but to recommend acceptance or rejection.

David Hill: In that case, I would advise that you reject them but put "Come back next year" in brackets beside your decision.

Eileen Blackburn: I agree. We are extremely concerned about one other aspect with regard to the provision of best advice to the debtor. That will prove very difficult where the person in question owns their own property either outright or jointly. They would be required to get a valuation of the property to identify the amount of equity in it and

the regulations contain specific provision to disallow payment for the outlay incurred in obtaining a valuation. In other words, the expense cannot be met from the trust estate and we would like that to be amended because it is causing us grave concern. I agree that thought needs to be given to the timing of the introduction of these regulations and, if possible, deferral would be preferable.

Murdo Fraser: Thank you very much; we must call it a day. Although this has been a short evidence session, it has been very helpful to the committee to hear your views and I am grateful to you for coming in.

At this point, we move into private session until 12 noon.

11:41

Meeting continued in private.

11:59

Meeting continued in public.

Draft Budget Scrutiny 2014-15

The Convener: Item 4 is continuation of our scrutiny of the Scottish Government's draft budget for 2014-15. We will take evidence from the Cabinet Secretary for Finance, Employment and Sustainable Growth, John Swinney. He is joined by John Mason, who is director of business, and Mary McAllan, who is director of energy and climate change in the Scottish Government. I welcome you all.

Mr Swinney, do you want to make an introductory statement before we get into questions?

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): The committee will be familiar with the information that I set out to Parliament in the statement on the budget. I am happy to let that stand and to answer questions.

The Convener: Thank you.

Obviously, some time has been allocated to this agenda item, but I am conscious that we cannot run past 2 o'clock. I hope that we will not take up all that time, so I remind members to keep questions focused and to the point. Answers in the same vein would be helpful in allowing us all to have some lunch.

We will cover the broader economy, support for small and medium-sized enterprises, renewable energy, questions around employability and skills and the budget's impact on ethnic minorities. We will move on to examine how the national performance framework is working, and issues around energy efficiency and fuel poverty. I dare say that other matters will come up.

We will start with broader economic issues.

Chic Brodie: Good afternoon. Given the divergence of views on whether we are in an economic recovery and on whether we are about to see another housing bubble, with the consequences that that might have, will you expand on your view of the UK economy and its relationship to your budget plans for next year and thereafter?

John Swinney: First, my view is that we are in an economic recovery. It remains a fragile recovery, but we are undoubtedly recovering.

In the budget statement in September, I set out a number of the key indicators that the Government would look at in order to assess the economy's performance, including employment, unemployment and economic growth. Crucially,

much of the atmosphere around the economy is created by the sentiment in the business community and attitudes to investment. There is survey evidence available: I refer in particular to the Bank of Scotland purchasing managers' index. I think that Parliament appreciates that I rely significantly on it as a test of business confidence, because I think that it is a very robust measurement. Economic recovery is taking place according to those indicators, but we have to be careful not to overstate the case. It is therefore essential that the budget for 2014-15 remain absolutely focused on delivering economic recovery, which is what the measures that I have set out are designed to do.

Secondly, we must ensure that we do not take steps that in any way undermine recovery. It is clear that there is a very active debate on the help-to-buy scheme, which the United Kingdom Government has initiated. We have introduced a revised version of that scheme, which we consider to be appropriate to the circumstances of, and needs in, the Scottish economy.

We must be careful that we have the proper balance in the economy in respect of what can fuel growth, and it is essential that we have a much more broadly based recovery that encourages support for a range of key sectors in the economy. On Monday, for example, I did some work in the Highlands to promote support for, and expansion of, the life sciences sector, which is a very significant research and manufacturing sector for the Scottish economy. Equally, our focus on renewables is about encouraging greater research and manufacturing capability.

We are at a point at which very careful stewardship is required for economic progress, but I think that recovery is under way. We have to take care to nurture that recovery and not to overstate it.

Chic Brodie: Last week, I attended a dinner with the Industrial and Power Association. There is a lot of optimism in respect of the opportunities that it will be afforded over the next few years, but one concern is the level of general funding that is available for capital investment. What discussions have you had with the appropriate funding authorities—the banks—on funding for those investment opportunities?

John Swinney: We talk constantly to the banks that are active in the Scottish marketplace, and we encourage banks that are not currently active in it to become so. Our ensuring the competitive availability of bank finance to support investment is crucial for enabling companies to make their decisions about investment.

My assessment of the availability of finance is that there is clearly greater access to finance

today than there was, say, two years ago. I am also confident that strong business propositions are able to attract bank finance, although the banks' propositions might still be on terms that companies are not prepared to take on. However, the competitiveness of a bank's offering within the marketplace is a slightly different question, which is why we encourage more participants to come into the marketplace.

The other factor that I think has changed—the Bank of Scotland's PMI highlights this—is that companies are now more confident about investment than they were two years ago; generally, they are more prepared to commit to investment, which is to be welcomed. However, there are still significant challenges in terms of the availability of bank finance, and the Government continues a very active dialogue with the banking institutions to encourage availability.

Chic Brodie: If I may, I will dwell on capital investment rather than resource spend. We heard evidence last week, or the week before, on the Government's continuing plans to shift spend to capital. There was a suggestion that that is a misplaced allocation because of leakage from increased capital spend. What view was or is being taken of leakage from capital, as opposed to leakage from resource spend?

John Swinney: My first point is that the Government has gone to great lengths over the past five years to prioritise capital investment where we can. We supplement our capital departmental expenditure limit applications with a variety of other funding mechanisms to boost capital expenditure, including resource-to-capital transfers, use of the regulated asset base, non-profit distributing programmes' capital receipts and, from 2015-16, the borrowing powers that Parliament will acquire.

We have taken steps as a Government to expand the sources of capital investment that we utilise and we do that because of the benefit of capital expenditure on the long-term health of the economy and the economic impact that can arise as a consequence. We also do it because improvement of the country's infrastructure contributes to Scotland's long-term economic health.

An example of the rail infrastructure improvement that we have undertaken is the Airdrie to Bathgate line, which has opened up very significant labour market mobility opportunities for people in West Lothian to access the west of Scotland labour market more conveniently, and for people in the east end of Glasgow to access the east of Scotland labour market much more conveniently. Those factors are part of the economic infrastructure; they contribute to competitiveness and economic mobility within our

society. That is our rationale for prioritising capital expenditure.

Chic Brodie: I understand that, but has the multiplier effect of capital versus resource been established?

John Swinney: Yes. Capital expenditure has a higher economic multiplier than resource expenditure has. Those factors are taken into consideration by the Government when we prioritise at a time when our capital budget is reducing. Should we act to get that budget back up to where it would have been, or to exceed that? Do we think that that is the right thing to do? Of course we do, because capital expenditure has a more significant multiplier than resource expenditure.

Clearly, we cannot spend everything on capital because we need to pay staff to run hospitals, schools and so on. We have to strike a sensible balance while recognising the greater economic impact as a central part of our assessment.

Chic Brodie: Can I ask two more small questions?

The Convener: You are moving on; Mike MacKenzie has a supplementary on the broader issue of capital and revenue.

Mike MacKenzie: When we look at the data, it seems that over the past few years the Scottish economy has been diverging from the rest of the UK, and that performance—based on whatever criteria we use—seems to be slightly better than the rest of the UK. Do you attribute that to the shift from resource to capital that has been the theme of the spending review?

John Swinney: The statistics speak for themselves. Based on the last data that were available prior to the budget statement, Scottish gross domestic product grew by 1.2 per cent, compared to 0.3 per cent in the UK as a whole. Prioritisation of capital investment has been at the heart of that performance.

We have argued consistently for the importance of ensuring that we sustain investment in the capital assets of the country; I think that we are seeing the fruits of that. Obviously, that percolates into improvements in employment levels and reductions in unemployment, into the bargain.

Mike MacKenzie: If you had more flexibility—more powers, if you like—what would you like to do?

John Swinney: One of the core interventions that I would make if I had more responsibility would be on the level of capital expenditure. We would have sustained a much more significant level of capital expenditure, had we had the option to do so. I have made no secret of that and I think

that we would have seen a more beneficial economic impact than the one that we have seen.

The Convener: On the leakage that Chic Brodie touched on, we have heard quite a lot of concern from witnesses about how much capital spend is not actually making its way into the broader economy. To give you an example, it has been suggested that for the new Forth crossing project—the Queensferry crossing as we have to call it now—400 Spanish workers are coming over to live in temporary accommodation. Is that something that you are familiar with? Is that a concern?

John Swinney: I am certainly aware that there are people from other countries working in Scotland. When I go to the supermarket in Blairgowrie, I sometimes feel as if I am in a supermarket in Bratislava, given the buzz that is going on round about me. People moving to seek employment is economic mobility.

I am keen to explore the committee's concerns about leakage. We are undertaking capital expenditure projects the length and breadth of the country and a substantial number of Scotland-based contractors are involved in construction projects around the country. As a result of competitive tendering processes, companies from outwith Scotland succeed in winning tenders, but that is the consequence of a free market. If the committee is going to recommend curtailing the free market, that will certainly be something for the *Official Report* to capture. The economic footprint and impact of the capital expenditure programme are significant throughout the country.

The Convener: The Government's programme is very much based on the principle that in creating infrastructure, capital spend will create jobs. However, the point that some witnesses have made to us is that if a proportion of those jobs are going not to people who are Scottish residents but to people who come here and live in temporary accommodation, most of that money will not be spent here but will be sent back home. Are the multipliers that you are using accurate? Does the Scottish Government assess where the people who are working on the infrastructure projects are from and where the spending is going?

12:15

John Swinney: As far as I am aware, we do not assess where people working on such projects are from. We certainly monitor performance on procurement success by companies. In the data that I have on procurement, 80 per cent of the successful businesses that won contracts through public contracts Scotland, which is the portal that advertises all public sector work in Scotland, had

Scottish addresses. I can give the committee the comfort of that data.

The Convener: Is that 80 per cent of the value of the contracts or of the number of contracts?

John Swinney: That is a percentage of the number of contracts.

The Convener: Do we know the breakdown in terms of value?

John Swinney: I do not have the value figures in front of me, but we will explore whether we can provide the committee with them.

Chic Brodie: I am sure that if we do that exercise we will also do the corollary, which is to find out how much we enjoy from Scots engineers working in Brazil, Nigeria and elsewhere. That is a difficult exercise. I understand the point that you were trying to make, convener, but I think that it might be slightly misplaced.

There are two particular drivers that I think are important. One is business start-ups and the other is exports. Given the current economic environment, the business start-up level and survival rates are perhaps not what we wish them to be. We had conversations with representatives of Scottish Enterprise and Highlands and Islands Enterprise in Irvine on Monday. What is the Government's emphasis with those agencies in terms of increasing the focus on business start-ups that are in the pipeline?

On exports and international marketing, I raised a question on Monday with Mr Roughead regarding VisitScotland's budget for the year: I recently travelled to Brussels, and I noted that there is nothing about Scotland in Brussels airport. That might be because of a particular decision, but I wonder how much emphasis is given to those agencies, in budget terms, to promulgate our need for increased exports.

John Swinney: On business start-ups, the committee is very familiar with the structure that we have in place for business development in Scotland, which is predicated on advice being available, through the business gateway, to any individual in the country who wishes to start up a business in any locality. It is necessary to ensure that that service is effective for the needs of individuals in all parts of the country.

The business gateway carries an obligation to identify companies that it considers have significant growth potential to Scottish Enterprise and to Highlands and Islands Enterprise, essentially to fuel a growth pipeline. I regularly discuss with Scottish Enterprise and HIE whether that dialogue is working effectively enough to highlight companies with growth potential, and whether we are getting behind them as quickly as we ought. I am confident that a company that is

identified as having growth potential will be well served. I am not pretty confident but very confident that companies will be well served by our enterprise agencies, which will support them through their development journey.

I see representatives of a lot of companies and I hear a lot of good feedback, so I am very confident on that point. I constantly scrutinise whether we are establishing the right connections from the business gateway to the pipeline. Companies will then be supported by the enterprise agencies to develop their economic footprint and their effectiveness.

We remain open to considering additional ideas beyond that structure. As the committee will be aware, I have put in place resources to establish the EDGE—encouraging dynamic growth entrepreneurs—fund, which is a competitive proposition that encourages start-ups to compete for resources that can then be used to support business development. That programme is well supported by a number of our leading entrepreneurs and is closely connected to Entrepreneurial-Spark Ltd, which has contributed significantly to increasing the focus on entrepreneurship within Scotland.

Another side of our operations comes through the work of the universities, in partnership with Scottish Enterprise, on the converge challenge, which is a university-based competitive proposition, like the EDGE fund, that allows academics who are developing products and processes, with the idea of taking them into the business concept, to compete for development resources. When I attended the converge challenge awards event last week, I heard about a number of very impressive technologies that are emerging from our university base that are being encouraged to develop that competitive instinct. In addition, the Interface organisation is involved in providing comparative research on how the institutions can enable business development to be taken forward.

Given that combination of being open to additional elements that add value to the business development process—in my view, initiatives such as Entrepreneurial-Spark Ltd and the EDGE fund add extra impetus—and the willingness to look at other ventures that may come forward, coupled with our existing infrastructure, I am pretty confident that we have the right architecture for encouraging business start-ups. Obviously, I will always listen to the committee's observations and those of colleagues around the country on that issue.

On exports, the current position is that about 80 per cent of VisitScotland's budget is spent on marketing, so that is a pretty substantial proportion of what VisitScotland does. The approach to 2014

will be linked very much to opportunities arising out of the much greater awareness of the country that will come as a consequence of the Commonwealth games, the Ryder cup and the year of homecoming—as well as, I imagine, the constitutional process that we are going through.

With the greatest respect to Mr Brodie, I am not sure that airport posters are always the things that make people decide where they will visit. I am impressed by VisitScotland's sophisticated approach to assessing what are the best messages and approaches to try to entice people to come to Scotland. For example, I thought that the "Surprise yourself!" campaign was enormously successful, with a very significant return on investment. Although the marketing budget for VisitScotland for 2014-15 is projected to be just over £50 million, VisitScotland's ability to turn that into a much greater budget with much more impact is enormous. That helps to promote the country as a tourist destination.

On the export question, we provide very detailed support to companies to encourage more of them to export. It is always a mystery to me why one company exports while a comparable company does not. Where there is no good reason why one company is exporting and another is not, we need to try to encourage greater awareness and participation in that process.

Chic Brodie: Regarding airport posters, there is evidence that the subliminal and repetitive catching of the eye can have a major impact. That is why I used the example of airport posters, but thank you for that answer.

Dennis Robertson: Good afternoon, cabinet secretary. By the way, I am delighted to hear that you are a modern man who takes part in the supermarket shopping. You are to be applauded on that.

Obviously, small and medium-sized businesses are important to the Scottish economy and to our rural communities. In fact, SMEs are often the backbone of sustainability for our rural communities. Everyone would agree, I am sure, that the small business bonus scheme has been extremely successful in supporting such companies. However, what are the barriers to the start-up or growth of SMEs? We are hearing that they are still not getting the opportunity to grow because they cannot get appropriate lending from the banks. That just seems to be a barrier. What impact does that have on the budget and how you implement it?

John Swinney: There are a number of ways in which the Government and private sector can help business growth in Scotland. First, the Government can help SMEs by maintaining the small business bonus scheme, which offers

practical assistance with companies' costs. Secondly, it can make available convenient and easy-to-access training interventions and employment support incentives to make it easier for companies to take on extra staff. The thought of taking on one other person might seem rather pedestrian, but it can be a huge undertaking if a small business is a sole trader. We have to be alert and make sure that our programmes are focused and easy to access.

Thirdly, we can make available business advice. Essentially, that is what I look to the business gateway to provide in all localities. Some SMEs will become account managed companies with Scottish Enterprise because they have such potential in the marketplace. Some months ago, I visited a two-person Scottish Enterprise account managed company in Edinburgh. Why is a two-person company an account managed company? Because it has such a tremendous business idea that it has great prospects of success. We can give businesses that advice.

Fourthly, we can give access to certain investment opportunities and funds over which Scottish Enterprise presides through ventures such as the Scottish Investment Bank and other funds.

There is therefore a range of different ways in which we can provide assistance. Ultimately, the banks will have to make a judgment about whether they are contributing to business growth through lending facilities. In my earlier answer to Mr Brodie, I made it clear that we maintain regular dialogue with the banking sector to make sure that it is alert and alive to the requirements of the marketplace. We also use the evidence and information that we have when we think that the sector's performance is poor to highlight how it could be made stronger and more effective.

Dennis Robertson: Do you think that the events that you have mentioned as happening in 2014—the Ryder cup, the Commonwealth games, homecoming, and the world sheepdog championships, which are coming to Scotland for the first time—will provide an opportunity for small businesses to take part? Will 2014 open the door to them and allow them to access greater finance, especially in the hospitality sector?

John Swinney: Those events are crucial because they provide opportunities for people to visit Scotland and there will be spin-off benefits to local organisations as a consequence. For my sins, I recently took part in the Perth kilt run. At the end of that auspicious day, as I either raced or stumbled over the finishing line, there was a great paraphernalia of entertainment, activities and businesses providing catering services to the event, which attracted several thousand people. All the catering companies were local SMEs, and

many of them started their business at the farmers market in Perth. They have gone up through the different levels of going into premises and supplying organisations and now they are able to come to such events to provide excellent services and quality produce.

Those events are very important, and that applies across the country. I know that colleagues have many events in their localities. The events are also important for the VisitScotland narrative as it explains to people from further afield what goes on in Scotland and what events they can participate in. Establishing those local connections is important to that narrative.

12:30

Dennis Robertson: Do you expect the business gateway and Scottish Enterprise, for instance, to be slightly more proactive in 2014?

John Swinney: I expect the business gateway and Scottish Enterprise always to be proactive. In addition, local chambers of commerce are running events in their localities on how companies can make something of the Commonwealth games opportunity. Not just Glasgow Chamber of Commerce but chambers of commerce around the country are doing that, because they can see the opportunities that will arise. There should be every opportunity for our networks, and I applaud Scottish Chambers of Commerce's activities to get companies to see the possibilities.

The Convener: Alison Johnstone has to leave at 1 pm, so I will bring her in.

Alison Johnstone: Thank you, convener. I want to touch on a couple of issues that have been raised. We heard that the transfer from resource to capital is designed to boost the economy. In relation to modern apprenticeships, construction is still severely gender segregated. That applies to construction as a whole—there are women involved in construction, but are they at the front end making a good living or are they in less well-paid jobs?

We also talked about SMEs. It is well known that far fewer women than men are involved in business start-ups and so on. There are opportunities in that regard that women are not enjoying. Given that the national performance framework seeks to provide

“opportunities for all to flourish”,

is the Government doing enough to ensure that women have the chance to obtain sustainable, secure jobs and play their part in the recovery?

John Swinney: The Government must be constantly focused on doing more in that area. The statistics on modern apprenticeship starts in

2012-13 show a split of 57 per cent male and 43 per cent female, so there is clearly an imbalance. The imbalance is not as marked as it is in other walks of life, but the difference is not acceptable.

We are taking steps to try to encourage and improve women's participation in the labour market, for example through our incremental steps on childcare support, which is another part of the budget. There are other, specific interventions through the work that Angela Constance has taken on in addition to her youth employment responsibilities. Those interventions arose from, in particular, the women's employment summit that we convened with the Scottish Trades Union Congress, which highlighted many issues.

We have put in place measures to support younger women to enter careers in science and engineering, through the careerwise Scotland initiative. We are also working closely with Professor Sara Carter, from the Hunter centre for entrepreneurship at the University of Strathclyde, and organisations such as Women in Business—I think that that is the right name—to encourage more women to contemplate enterprise start-up and business leadership.

I accept that the Government must do more. We have a programme of activity to try to assist, but ministers recognise that we need to make more significant progress.

Alison Johnstone: How robustly is the budget equality impact assessed? When you say, “We will spend this on this,” is there an overview of how that will afford the greatest employment opportunities to the greatest sector of society?

John Swinney: We carry out an equality impact assessment on the budget at portfolio and proposition level. The information is amassed and fed into the equality statement that I publish alongside the budget. It is a substantial piece of work to put that together.

The equality impact assessment is carried out at portfolio level in accordance with guidance that I put in place after consultation with the equality and budget advisory group. It brings together Angela O'Hagan of the women's budget group, Professor Ailsa McKay of Glasgow Caledonian University, and the Scottish Human Rights Commission. The group meets civil servants to strengthen and to challenge what we do in this area. I see the members of the group at least annually. I have made it clear to Parliament on a number of occasions that I find that an extremely rewarding and challenging part of the budget process because, essentially, it involves taking a comprehensive look at what we are doing and testing it against equalities considerations. Those factors are all considered fully by ministers when we arrive at our choices in the budget.

The equality and budget advisory group has been generous in what it has said about how the Government goes about that part of its work. I set a great deal of store by the dialogue that I have with the group as we formulate our choices.

Alison Johnstone: As you will know, the national performance framework seeks to provide “opportunities for all to flourish”,

but there are those who believe—and this is a concern that I fully understand—that there is still an extremely narrow focus on economic considerations. For example, Scottish Environment LINK has called for the removal of “increasing sustainable economic growth” from the single purpose, pointing out that that is just one of many means to the goal of flourishing and is not an end in itself.

What consideration is given to the broader aspects of the national performance framework when it comes to the awarding of contracts, for example? Does the Government look at the NPF when it is awarding contracts?

John Swinney: The Government’s purpose has been defined as to create

“opportunities for all to flourish through increasing sustainable economic growth.”

I accept that this is a matter of judgment and that there is no precise science that can justify what I am about to say, but my judgment is that, fundamentally, that is a pretty balanced approach for the Government to take. We recognise the necessity of delivering opportunities for all. That brings with it a requirement to tackle regional differences in economic performance. If I look at some of the graphical information that has been provided to the committee—as with all such things, with the national performance framework I tend to look at the “performance worsening” bits before I look at the “performance improving” bits—the difference between the three local authority areas with the highest employment rates and the three with the lowest rates is going in the wrong direction. That represents a direct challenge from the NPF to the aspiration of the Government’s purpose to deliver opportunities for all to flourish. Unfortunately, there is a growing gap between the higher-performing and the lower-performing areas of the country.

To take that as an example, that leads the Government to take action to ensure that, in the areas in which it is performing poorly, it assists by maximising access to employment, creating opportunities for people to move forward and undertaking regeneration work. The NPF informs those policy choices.

I could not say that it goes as far as to inform how we allocate contracts, because contract

allocation is done through the procurement process but, to me, the procurement policy whereby we say that we want it to be a presumption that there will be a community benefit clause in our public sector contracts represents a response to some of the issues that are thrown up for us by the NPF.

The Convener: I think that Hanzala Malik—

John Swinney: I would like to add to the answer that I gave on equalities issues. I go to the Equal Opportunities Committee every year—I imagine that I will go there this year. It has had a sustained and probing interest in equalities and in strengthening the equalities assessment that the Government undertakes, and I welcome that dialogue.

The Convener: Hanzala Malik wants to come in on the issue of equalities.

Hanzala Malik: Good afternoon and welcome to the committee, cabinet secretary. I will ask about two equalities issues.

We are both aware of the wish among many of our councils up and down the country and in the Scottish Government for employers and bodies that win contracts that are given out to demonstrate that they are equal opportunities employers, but there seems to be no way of policing that. When someone gets a contract, no one checks what is done. Many contractors are failing to meet our wish for the employment that they provide. What is your view on that? Do you agree that regulation is needed to ensure that someone physically checks what is done?

We have a growing ethnic minority community in Scotland—we have people from more than 140 communities—but we are not reaching out to it on employment opportunities. What is done is sketchy and scattered and is not uniform across Scotland. People are not coming through as a result of initiatives. What safeguards will you introduce to ensure that more rigorous action is taken than in the past?

John Swinney: One point about acting on employment issues is that we get into territory where we do not have legislative competence. Many employment issues are reserved to the UK Government. However, we have control over aspects of the procurement and contracting regime, through which we can apply some constraints. The context is that what we can do is limited because of the reservation of employment law, but I do not want that to sound as if I am saying that we can do nothing. We can do plenty of things on contract activity.

On Mr Malik’s core point, if an employer has made a commitment as part of a procurement contract to employ a certain number or range of

people, a certain skill base or the long-term unemployed, for example, that should be monitored as a matter of course, because that is a contractual commitment. That is as important as whether the job will be finished on the Friday when the contractor said that it would be finished and whether it will be done for the agreed amount of money. Such contractual commitments should be monitored. That is purely and simply a matter of contract performance.

I have answered questions on, for example, monitoring regional selective assistance payments that are made to companies. Such payments are based on particular employment commitments, which we monitor. If those commitments are not honoured, the money is not paid or is reclaimed. I signal clearly that commitments that have been entered into should be complied with, which should be monitored by all concerned.

Many people from ethnic minorities participate fully in our economy and that is very welcome. We talked about that earlier. Of course, we can do more to encourage that participation. That is very much part of the work that Angela Constance does, which is promotional and evangelising work to encourage participation in the economy by a broad cross-section of our society.

The issue rather goes back to the point that Alison Johnstone raised about the opportunities for all scheme. That has to mean opportunities for all, in every part of the country and from every ethnic background, to ensure that they fulfil their economic potential. The Government is keen to ensure that we support that process.

12:45

Hanzala Malik: My first question was on how we monitor the situation, and my point was that that is not being done. I am looking to you to try to find a system in which we ensure that it is actually done. Although most employers have glossy magazines and contracts that state that they employ people from minority communities, in practice, that is not happening and no one is challenging that.

My second point on employment is that, as you will know, 10 per cent of the community is from ethnic minorities, but the figures on the number of people from ethnic minorities who are employed do not reflect that. Clearly, something is wrong. Before the attack on the twin towers, we were proactive in Scotland in trying to ensure that we carried all the communities with us but, after it, the whole thing dampened down, and it was not sexy any more to talk about minority issues. The position has not really recovered. I am not just saying that—the facts and figures actually prove it. If we ask any major employer about employees

from minority communities, we find that the figures are desperate. Something needs to be done. What are we going to do to ensure that the issue is addressed?

John Swinney: A moment ago, I talked about the work that Angela Constance is taking forward. She is involved in direct discussion with employers about their commitments to take on new staff. That is about young people and people from ethnic minorities, and trying to tackle the gender issues that we are concerned about. I assure Mr Malik that that is part of what the Government is doing. I will look again at whether our enterprise agencies and Skills Development Scotland could take further steps to support the process.

I hear what Mr Malik says about the sense after the twin towers incident, but I think that, as a country, we generally take a positive attitude to the involvement of people from different backgrounds in our economy and society. The Government will do all that it can to support that process.

Hanzala Malik: I appreciate that—thank you.

The Convener: Dennis Robertson has a supplementary question on equalities.

Dennis Robertson: I endorse the statement that the cabinet secretary made about the Equal Opportunities Committee. I am a former member of that committee and during its meetings asked the cabinet secretary questions, so he will not be surprised that I am going to ask about people with disabilities. Of course, they go across the gender spectrum and the spectrum of ethnic minorities. Are the figures collated only on people with disabilities as a separate group, or are they collated in terms of, say, women with disabilities or people from ethnic minorities with disabilities? Obviously, the approach will impact on the figures for women or people from ethnic minorities who go into apprenticeships, for example.

John Swinney: At the moment, I cannot say to Mr Robertson whether there is that cross-referencing or gender disaggregation on disability, but I would be surprised if there was not. Similarly, I cannot answer today whether there is a disaggregation in relation to people with disabilities and ethnic minority status, but I will check those points and advise the committee.

Again, the issue goes back to the range of interventions that we make. Yesterday, I opened a new facility for the organisation Forth Sector in Duddingston in Edinburgh. Its core business is to train people with disabilities and learning difficulties to get into employment, in a focused and supportive fashion. A number of supported businesses work at part of the organisation, and it operates under a social enterprise umbrella. The committee will be aware of the Government's priority to expand and develop the social

enterprise sector within Scotland and, at a personal level, my determination to make sure that that is done.

Yesterday, I saw some of the most encouraging examples of how people with disabilities can enter the labour market and make a marvellous contribution to our economy with just a little bit of adaptation and additional support. Seeing that in practice made for a most invigorating visit. In taking forward our interventions, the fact is that, in among all the budget issues that we wrestle with, we have maintained a level of financial support to the third sector in the Government's budget. That shows that we think that it will contribute to the achievement of our objectives and our purpose of creating opportunities for all to flourish.

Margaret McDougall: Good afternoon. I want to focus my questions on modern apprentices. How ready are they for work? Are we giving them the right skills for the opportunities that are out there? I note from the level 2 figures that there is quite a substantial reduction in the funding for employability, skills and lifelong learning, from £267.2 million in 2013-14 to £239.9 million in 2014-15—and the figure reduces further in 2015-16. How are we going to match up-and-coming young people to the opportunities that are out there in the economy if we are reducing that budget?

John Swinney: First, I believe that, by the time young people have gone through modern apprenticeships, they are ready for work. The challenge in some cases is to make sure that young people are in an effective position to start some of the programmes. That is where pre-apprenticeship training is required to get young people into a position where they are ready to participate in the training programme. Once they are in the modern apprenticeship programme, I have every confidence in its ability to fulfil those requirements.

Some subsequent issues arise in relation to the points that you raised about whether young people are trained for the opportunities that exist in the country, and it is an on-going priority to make sure that we get that right. We go to a lot of trouble to try to garner information from Scotland's business and industrial sectors to establish where demand is likely to come from and what opportunities are likely to arise, and to establish a match of skills training between what those sectors tell us, the placements that companies are able to offer and the training opportunities that our further and higher education sector can deliver.

That is an elaborate structure, and I do not for a moment suggest that we can deploy it with absolute precision in every circumstance, but we try to bring industry and providers together in dialogue to ensure that what is offered is right and

appropriate. We have substantial completion levels for modern apprenticeships, and positive destinations are sustained as a consequence of them. For example, 92 per cent of modern apprenticeship completers are in work six months later. That is an encouraging indication of performance.

The other aspect of the modern apprenticeship programme that we wrestle with is that there will be demand, from time to time and from different sectors, for a more sophisticated level of skills training in the programme. We have taken steps to listen carefully to industry and to ensure that we can meet those expectations.

In relation to the budget line that Ms McDougall raised, the Government is taking forward an efficiency programme that principally lies with Skills Development Scotland and which is about ensuring that that organisation fulfils obligations on modern apprenticeships and training provision more efficiently. That is what is accounted for by the budget profile that has been set out on that line.

Margaret McDougall: Thank you for that response.

The latest figures show that 13,000 more women were out of work in the last quarter. Are we meeting the employability targets for young people and women?

John Swinney: May I first make a further point on the budget line? Another specific issue is the one-off transfer for the youth employment Scotland initiative, which has come out of that line and gone elsewhere. That is another relevant factor.

We are seeing a reduction in the level of unemployment of young people, but clearly that remains a significant challenge for us. The very focused work that Angela Constance is taking forward is designed to ensure that we encourage the business community to recruit as many young people as it can. For example, at the end of August we went through a promotional exercise whose theme was the making young people your business campaign, which was designed to encourage and motivate employers to take on young people as part of a business expansion programme. There was wide participation in the programme, which we will sustain to see whether it adds further impetus to efforts to create employment opportunities.

Margaret McDougall: The question is how successful that programme is. The committee had an external meeting on Monday at which we met businesspeople in Irvine who reiterated that young people are not ready for work because basically they do not know how to read or write. The message was that they did not have the skills

required for work. In that context, the reduction in funding for adult lifelong learning is concerning.

John Swinney: We are putting substantial resources into adult learning in a variety of areas, whether through European funding or through the funding that is available to the Government to support programmes at the local level. From time to time, I hear arguments about young people not being ready for work, but I have seen an awful lot of such claims disintegrate before my very eyes. We can put in place a lot of support to enable young people to be ready for employment. The Government has a range of interventions in place that can assist that process.

Margaret McDougall: There are a lot of interventions and agencies out there that are working with young people and adults to get them into work, but there does not seem to be any joined-up thinking on how they provide services, and it seems that not everyone knows about those services. There needs to be more joined-up thinking from agencies.

John Swinney: There are two different aspects. If people do not know about services, I would accept that we have a job of work to do to raise awareness. Campaigns such as the making young people your business campaign are designed to raise companies' awareness.

13:00

I want to be absolutely clear with the committee that there is a very high intolerance level within the Government about services not being joined up. If the committee has suggestions about how we can join up services and where the gaps and disconnects exist, I will be delighted to receive them. I get frustrated when the Government spends a lot of its time, and I spend a lot of my time, working through organisations such as the Scottish employability forum to get everybody to work together. I totally accept the point that employers do not have the time to go around joining the dots. In the public sector, we have to join the dots for them. If that is not happening, I give the committee a commitment that the Government will make every endeavour possible to try to make it happen. If the committee has suggestions to make in that regard, I will receive them willingly.

Margaret McDougall: At the workshop that I attended, an area manager for a supermarket said that no contact had been made with her about modern apprenticeships, which is hard to believe.

John Swinney: I am very happy to explore the specifics of that case. I assure the committee that Skills Development Scotland is very active in trying to ensure that we fully undertake the modern apprenticeship programme. In 2011-12,

there were 26,427 modern apprenticeships, and in 2012-13, there were 25,691. The Government's target was 25,000 in each year, so there is obviously full participation in the programme. However, I am happy to explore whether more can be done to extend communication in the area.

Hanzala Malik: A developer made the very helpful suggestion that if students went to them directly rather than to a college they could train them in-house. I thought that that would be music to Mike Russell's ears—college waiting lists are so long that it would be very helpful if industry participated in that way. Perhaps we can explore the possibility of allowing some industries to work with colleges, so that youngsters go directly to employers and achieve qualifications through a college in their area at the same time. That would ease the pressure on student numbers; more important, it would let employers train people directly in the industries that need them. That would possibly be a win-win situation.

John Swinney: I will make two comments on that point. First, all modern apprentices have employed status in Scotland. Every one of those 25,691 people is employed, so companies already provide significant aspects of the training opportunities. Colleges provide some training, but employers provide a substantial amount of it.

Secondly, forgive me for disputing the point but we have been around the houses on college waiting lists. The Government has shifted the emphasis on to the college sector to ensure that more full-time education is provided in colleges. That is a beneficial step, as a consequence of which more people will be able to access the labour market.

Hanzala Malik: I do not want to score points, but I have constituents who are waiting for college places, so I speak from practical experience. I want to find a solution. I thought that the solution that I offered was a good one: not all courses need to be in college but colleges need to provide the qualifications. A student would enrol in college simply to ensure that the quality of education provided by the employer was of qualification standard; nevertheless, the individual would be qualified to work in industry. I thought that I was being helpful.

John Swinney: There are many points we could discuss around that solution. I have said my piece on college places.

Chic Brodie: On that point, when we were in Irvine on Monday, a couple of the businesses at the workshop that I chaired suggested that, instead of having modern apprentices or people involved in opportunities for all, it might be better to encourage businesses to take people on full time and train them in the company or the

industry. I do not know whether that has been or might be discussed. It would take away some of the less-than-targeted argument about college places.

John Swinney: The point that I made about the employed status of modern apprentices is a fundamental one about the advantages of training individuals within the workplace.

The Convener: We need to move on. We have not touched yet on energy efficiency, fuel poverty or energy more generally. I will bring in Marco Biagi, who is suffering a little. He will survive the next few minutes.

Marco Biagi (Edinburgh Central) (SNP): I will do my best.

I will ask basically the same question as I asked last year about the fuel poverty budget. A large proportion of the overall spend is dependent on money coming through the energy company obligation scheme; the Scottish Government's funding is, I believe, £79.2 million, and the intention is to bring it up to £200 million overall with ECO. What assurances are there that that money will come from the companies through the ECO scheme? Is there anything in the experience over the past year since I last asked the question to which you can point to provide further reassurance on that?

John Swinney: The manner of pursuing that is agreed with the energy companies. I am confident that we have got to a position where the schemes are working much more effectively than was the case. Several years ago, there was, to be blunt, a disconnect about the energy companies being able to fulfil their commitments because they simply did not know who would benefit from the interventions that they could make.

We have drawn together an approach of the Government working with local authorities and with the energy companies. The local authorities have a tremendous knowledge base about who would be more likely to benefit from the schemes. They are working effectively and drawing together the resources that we can contribute and those that can come from the ECO scheme into the bargain.

Marco Biagi: One of the concerns that has been raised is about the regularity of the Scottish Government's reporting. Has that been raised with the Government through other channels? Are you considering the regularity of the reporting on the outturn through the Scottish Government's £79.2 million?

John Swinney: We report to Parliament on our outturn expenditure on the resources for which we have responsibility. I am not aware of representations having been made to us about

reporting on that wider programme, which would involve partnership with local authorities and the energy companies, although I am pretty sure that a statistical base must be available to capture that, principally because the energy companies have to fulfil their obligations.

I am not sure whether all that information comes together readily in one publishable format, but the different data sets will be available.

Marco Biagi: We have heard that figures for ECO are published almost monthly. Is it the Scottish Government's aspiration to match that or come as close to that as possible?

John Swinney: I would want to consider whether we could fulfil a commitment to publish monthly figures. The Government will consider that point.

Marco Biagi: The lack of an obligation on the companies to report figures disaggregated by part of the United Kingdom has previously been a problem. Do we have a robust figure for the amount that they are spending in Scotland?

John Swinney: I am much more confident about the information that is available on what is spent in Scotland than I was two or three years ago. We have a much clearer position now.

Marco Biagi: Have you negotiated that figure with the companies directly or are they required to publish it by the regulations that govern the scheme?

John Swinney: They will be under an obligation to make a commitment across the United Kingdom. We have been able to negotiate with each of the energy companies a position on the programme that we are able to set out in the budget.

Marco Biagi: So that is one area in which it would have been helpful to have a scheme that was better designed for the interests of getting the statistics in Scotland.

John Swinney: Ensuring that we have interventions that are appropriate to our circumstances is a key part of what we would argue.

Marco Biagi: We have heard that the main factor that has driven fuel poverty has been the cost of energy. Do you agree?

John Swinney: It is a combination of the cost of energy and the need to improve the housing stock. Those are the factors that contribute to fuel poverty.

Marco Biagi: I promise that this is my last question, convener. Cabinet secretary, even if you had a blank cheque for energy efficiency, would

you still come up against any non-financial barriers and, if so, what would they be?

John Swinney: One of the non-financial barriers is getting people to engage with the process satisfactorily. Loads of people are perfectly happy to take part in schemes to improve energy efficiency and reduce their bills, but lots of people who would benefit from full participation in the schemes do not participate. Trying to raise awareness and elicit commitment is part of the process.

The other material factor is the structure of our existing housing stock. If I recall correctly, one of the issues that we discussed when working on the land and buildings transaction tax was a fiscal incentive around energy efficiency. I was not persuaded by the argument, partly because of the significant volume of flatted dwellings that we have in Scotland. The existing housing stock needs everyone to agree on the steps that must be taken to deliver value for people. That issue, which is very relevant to Mr Biagi's constituency, is another non-financial obstacle to overcome.

The Convener: We heard evidence from Energy Action Scotland and others about their concern that £10 million has been taken out of the fuel poverty budget to fund mitigation measures for the underoccupancy charge in housing. Can you explain your rationale for that, given the priority that fuel poverty should have as part of the Government's agenda?

John Swinney: The rationale has essentially been about the uptake of the scheme given some of the processes that we have had to go through to secure agreement about the terms of the scheme with the UK Government. We identified that, in the current financial year, we are unlikely to be able to spend all the resources that we envisage will need to be spent, so we are able to redeploy the funds to deal with the consequences of the bedroom tax.

The Convener: Was there not another way in which that money could have been spent to tackle fuel poverty?

John Swinney: We have to make decisions about the priorities that we want to focus on. We had the opportunity to take steps to tackle the bedroom tax, which affects members of the public today in Scotland, and we took that decision.

The Convener: Lastly, I want to return to Marco Biagi's point about the ECO scheme. According to your budget for the current year, energy companies should be investing £135 million in Scotland. Do you know whether that target is being met?

John Swinney: I do not think that I have a progress report on that in front of me, but I would

certainly be happy to share that information with the committee.

The Convener: That would be helpful.

Margaret McDougall: The Scottish Government has a statutory requirement to eradicate fuel poverty by 2016. From the figures that we have seen and the way things are going, it looks as though we will not meet that target. Are you confident that we will?

John Swinney: We have a range of measures in place that we think can contribute towards tackling fuel poverty. We will monitor progress as we work towards later financial years.

13:15

Margaret McDougall: One of the issues on the underspend was the time that it takes individuals to fill in the forms and acquire the funding. Has anything been done to correct that?

John Swinney: The Government tries to ensure that we make these schemes as accessible as possible to members of the public. If particular obstacles arise out of that, we will ensure that they are tackled.

Mike MacKenzie: I notice that you have extended the period for the renewable energy investment fund. I wondered whether that was a response to concerns in the industry—which I must admit I share—about the protracted process of energy market reform in the UK Government. Is that, along with related matters such as the insufficient pace of grid investment, grid connection charges that continue to be high and high transmission charges, leading to a situation in which we are unable fully to realise our renewable energy opportunities as quickly as we may have anticipated two or three years ago?

John Swinney: The Government has a clear strategic direction in the encouragement of renewable energy development. We have set that out over the lifetime of this Administration and taken steps to ensure that we establish clear leadership of the renewable energy sector in Scotland. That has been a focus for Scottish Enterprise, Highlands and Islands Enterprise and the Government's own energy policy.

It would be fair to say that the development of technologies has been slower than we would have anticipated. Electricity market reform has undoubtedly contributed to that process. Equally, the wider economic climate and the investment climate have contributed to that process.

Those things—investment resources, the progress of grid connections, electricity market reform and technology development—are all tied up together. As a consequence, the demand for

resources for Government investment has been slower than we would have anticipated and certainly slower than we had planned. As a consequence, we have extended the timescale over which we will undertake the renewables investment. That is a prudent and sensible thing to do.

The Convener: You will have seen the Audit Scotland report on renewable energy that came out two weeks ago. You are projecting a bounce-back in 2014-15 to spending £130 million. Is it realistic to expect that uplift in funding within that timescale?

John Swinney: We are moving into a position in which we have more clarity. Let us take the factors that I have just set out to Mr MacKenzie, which are the investment climate in general—the economic confidence—electricity market reform and wider technological development. On all three of those factors, the marketplace is becoming stronger. Economic conditions are improving, electricity market reform is getting more securely founded and technology developments are continuing apace.

I believe that the approach that we are taking to extend the timescale for development is correct. I will of course keep it under review and keep Parliament advised about any conclusions that I arrive at out of that. What was interesting about the Audit Scotland report was the view that Audit Scotland took on the absolute clarity of the Government's strategic direction. That is welcome, but trying to ensure that that is translated into practical investment decisions remains a priority for the Government.

Mark McDonald: I want to focus on a couple of areas. The first is getting more young people into work. We touched briefly on the modern apprenticeship scheme, which is a route into employment for a lot of Scotland's young people, and we recently had the make young people your business initiative. When are we likely to get an indication of the initiative's success in increasing the number of young people who are offered a job?

John Swinney: Youth employment statistics are very susceptible to variation during the calendar year. There is a significant spike immediately after the conclusion of the school year, which works its way through. The guidance makes it crystal clear that comparisons of youth employment data should never be made quarter by quarter and that there should be an annual like-for-like assessment of a given moment in a financial year.

Youth unemployment fell by 12,000 in the past 12 months. We will see month-by-month comparisons, but it is important that we undertake

the annual comparison to test performance on reducing youth unemployment.

The Government looks to initiatives such as make young people your business, which follows on from other initiatives that we have taken, to give impetus to reducing youth unemployment and getting young people into employment.

Mark McDonald: I welcome the positive trend in youth employment in Scotland.

Another area that we looked at during our evidence taking on 18 September was in-work poverty and low pay. Obviously, there are limits to what the Scottish Government can do in legislation. The living wage is broadly welcomed. The Confederation of British Industry Scotland fell short of completely endorsing the living wage in the private sector, although it made noises about not being averse to a rise in the minimum wage. What can the Scottish Government do to encourage private employers to consider their pay scales for employees, given that those employers have a key role in helping us to rid ourselves of in-work poverty?

John Swinney: There are two things that the Government can do. First, we can lead by example. We are determined to do that where we can in the public sector. Ministers carry responsibility for large parts of the public sector, where we can meet our commitment to the living wage; in other parts of the public sector, we do not have operational control and cannot do that.

Secondly, we can take part in active dialogue with stakeholders to encourage private companies to follow the Government's example. When I think about the rationale for all this and how staff participation is perhaps the most crucial factor in the success of any venture, it is clear that there is a strong argument that there is much to be gained by the private sector embracing the living wage.

Mark McDonald: In the workshop in Irvine in which I was involved, we explored support for Scottish businesses that want to grow. It has been suggested that Scottish businesses are quite good at being acquired but not as good at making acquisitions. Is there work that the Scottish Government can do to support businesses that want to expand in that way?

John Swinney: My worry is not that Scottish companies are unable to grow by acquisition—we have some good examples of Scottish companies that have grown in that way—but that Scottish companies that could grow and provide a greater contribution to the Scottish economy by anchoring their development here are acquired at a point when, if investment capital in the Scottish economy was more available, they could perhaps have developed and grown without acquisition. That is the bit that worries me.

I think that we lose too many companies of scale, capability and capacity because, although investment funds are available to encourage start-ups and modest developments, sources of money to provide transformational expenditure are, I fear, not available within the Scottish economy.

Mark McDonald: Is that something that—

John Swinney: My apologies to Mr McDonald, but I should have completed that answer.

What the Government is doing is structuring a range of different discussions to complete the funding profile so that, for every stage in the development of the company sector, we are encouraging participation within the marketplace to ensure that there are investment resources that can provide support in that fashion. That has been the subject of a great deal of discussion, involving the First Minister, myself and various interested parties in Scotland and further afield, to encourage that to be the case.

Mark McDonald: When we took evidence from Entrepreneurial Exchange, we heard that companies often do not have the seamless transition that they require between angel investment and venture capital. Is that something that the Government can assist with, or is that beyond the limit of what you can do?

John Swinney: We can assist with an element of that by ensuring that there is a complete profile of potential investment channels available within the marketplace in Scotland. That is something that we can do, and that is what our discussions are focused on doing.

Regarding the angel investment that Mr McDonald mentioned, in 20 years the angel community in Scotland has come from nothing to become substantial and a great asset to the Scottish economy. The fact that we can make that journey in a relatively short space of time is very encouraging indeed. We need to ensure that that is the case in all aspects of the economy.

Chic Brodie: I have a question on that issue. Funding is of course important and, as you rightly say, the growth and involvement of angel investment has been very substantial. Speaking from personal experience, I think that, although funding might be available, there is a lack of good business support—aside from what the major agencies do for high-growth companies—for issues such as knowledge transfer from university research and development. Are any conversations taking place on how we can help businesses to achieve the transformation that you have talked about?

John Swinney: It is important that we consider what progress has been made within the economy. We have lots of companies that grow

and develop and get access to support from our enterprise agencies. In my travels around the country, I encounter more and more companies that are account managed by Scottish Enterprise or Highlands and Islands Enterprise that say to me that they feel well assisted in their growth journey—

Chic Brodie: I agree with you on that, but I am asking about the companies outwith that.

John Swinney: That comes back to my earlier response about the need to have the correct connections between business gateway, which should be looking at Scotland's entire company base, and Scottish Enterprise, which also has an obligation on the issue.

I have also opened up this conversation with chambers of commerce, given the company base that they have. If a chamber of commerce thinks that a company has growth potential and is doing well, the chamber of commerce can ask the simple question of whether the company is account managed by Scottish Enterprise or HIE and, if it is not, the chamber of commerce can feed that information in so that the enterprise agency can make an assessment.

13:30

The judgment that we have made is to use a model of business development that is selective. As the public sector, we decide which companies we think have the best growth potential. I have broadened the discussion to involve dialogue with the banks because they are making an assessment about which companies have growth potential within the economy and I want us to be satisfied that in all circumstances we are able to properly capture the companies with growth potential within the economy.

The Convener: I will close with two questions that arise from the evidence that we took on Monday from Scottish Enterprise, Highlands and Islands Enterprise and VisitScotland. The first question is on the strategic forum. Are we on target to meet the strategic forum savings for the current year of £25 million?

John Swinney: We will certainly have to live within those constraints, so my answer is yes.

The Convener: That is a slightly qualified answer, but that is fine. Next year the savings are £40 million, and the year after that they are £40 million. We have identified that Scottish Enterprise, HIE, VisitScotland and SDS are finding £26 million in savings between them. Can we assume that it is therefore the Scottish Further and Higher Education Funding Council that is finding the extra £14 million in savings?

John Swinney: It will come from the funding council and Skills Development Scotland.

The Convener: SDS was in the group that was making the £26 million in savings that I quoted. I think that SDS said that it was expecting to find £1 million in savings.

John Swinney: Sorry—in which financial year?

The Convener: For next year.

John Swinney: For 2014-15. The numbers that I have are slightly—not substantially—adrift from that. The five participants are Scottish Enterprise, HIE, VisitScotland, the Scottish funding council and SDS.

The Convener: And that adds up to £40 million?

John Swinney: Yes.

The Convener: I will be keeping a close eye on that one.

One thing that came out of the evidence from Scottish Enterprise was that, in its published plan on income for the 2013-14 financial year, it has a shortfall in income projection of £26.3 million. It is proposing to make that up through asset sales. When we put to it that that was a fire sale of assets, it denied it. However, it accepted that it was not a good time to be selling assets, given the financial situation.

My final question is: do you think that it is sensible, in the current climate, for a Government agency to be selling capital assets to fund a shortfall in its income?

John Swinney: In selling any asset, Scottish Enterprise will be obliged to satisfy itself that it can secure the appropriate market value for that asset. If it is not securing that market value price, it should not be selling the asset in question. Those are the rules that are in place.

The Convener: I understand that, but I am sure that you will understand, cabinet secretary, that if we are talking about sales of commercial property holdings, for example, now is not a good time to dispose of them because the market is very low. Perhaps if Scottish Enterprise held on to those holdings for two, three, four or five years, the market might improve. It is similar to when a former UK Government sold the gold reserves at an all-time low gold price and perhaps did not get the best value for money for the taxpayer.

John Swinney: I completely accept your point about the gold price. I think that a judgment has to be made about individual sales of property, but the tests that I set out have to be applied in every single case. That is the requirement of the system.

Scottish Enterprise will generate income in other areas. For example, it will be on the receiving end of a capital gain from the acquisition of companies in which it has shareholdings. That may contribute to some of this area of activity into the bargain. A judgment has to be made on the appropriateness and the value of any transaction that can be taken forward.

The Convener: So it does not concern you that Scottish Enterprise is selling capital assets to fund a shortfall in income.

John Swinney: We have to be careful how we view this. Part and parcel of the financing of Scottish Enterprise is that it will be using other sources of income beyond grant-in-aid. That is not something new; part of the character of Scottish Enterprise for more than 20 years has been that it generates income as a consequence of some of its other business activities. However, ultimately, when it comes to the issue of property disposals, Scottish Enterprise has to make a case-by-case judgment about whether the tests can be fulfilled in relation to property disposals.

The Convener: I am sure that Scottish Enterprise can get market value, but the market is well down, as we know.

Chic Brodie: On that point, in South Ayrshire we have been trying to encourage the council to dispose of its assets because, if it does not sell them, it will have substantial on-going maintenance and energy costs—costs that horrified me as regards the liability that the council will incur. Therefore, we cannot just consider the market value. I hope that, working with the Scottish Futures Trust, the council will be able to achieve more than market value.

The Convener: That would of course apply if we were dealing with an asset that is unlet and empty. If we are dealing with let properties, it is a completely different picture.

Dennis Robertson: Cabinet secretary, do you remain encouraged by the level of investment that is coming into Scotland at the moment, especially in areas such as oil and gas?

John Swinney: I remain very encouraged and the Ernst & Young attractiveness index highlighted that we are at a 15-year high with regard to the number of projects. As Mr Robertson will be aware from his own constituency environment, the oil and gas sector in the north-east of Scotland is developing very significantly and it is expanding its reach into other parts of Scotland. Substantial oil and gas activity is now happening in other parts of the country because of the congestion in and around Aberdeen. Obviously, that spreads the economic benefit to other parts of the country.

The Convener: As there are no further questions, we will call it a day. I thank the cabinet secretary and his officials for attending.

Meeting closed at 13:36.

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