



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government, Housing and Planning Committee

**Tuesday 9 November 2021**

**Session 6**



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Pàrlamaid na h-Alba

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**Tuesday 9 November 2021**

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**LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE**  
**10<sup>th</sup> Meeting 2021, Session 6**

**CONVENER**

\*Ariane Burgess (Highlands and Islands) (Green)

**DEPUTY CONVENER**

\*Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)

**COMMITTEE MEMBERS**

\*Miles Briggs (Lothian) (Con)

\*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

\*Meghan Gallacher (Central Scotland) (Con)

Mark Griffin (Central Scotland) (Lab)

\*Paul McLennan (East Lothian) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Martin Clarkson (Scottish Property Federation)

Kevin Fraser (Perth and Kinross Council)

Charles Golding (Royal Institute of Chartered Surveyors)

Alastair Kirkwood (Scottish Assessors Association)

David Magor (Institute of Revenues Rating and Valuation)

Jonathan Sharma (Convention of Scottish Local Authorities)

Pete Wildman (Scottish Assessors Association)

**CLERK TO THE COMMITTEE**

Euan Donald

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament

### Local Government, Housing and Planning Committee

*Tuesday 9 November 2021*

*[The Convener opened the meeting at 10:05]*

#### Decision on Taking Business in Private

**The Convener (Ariane Burgess):** Good morning, and welcome to the 10th meeting in 2021 of the Local Government, Housing and Planning Committee in 2021.

I ask all members and witnesses to ensure that their mobile phones are switched to silent and that all other notifications are turned off during the meeting.

Our first item is consideration of whether to take items 4 and 5 in private. Item 4 is an opportunity for members to reflect on the evidence taken in the meeting, and item 5 is consideration of our approach to an inquiry on retrofitting housing for net zero. Do members agree to take items 4 and 5 in private?

I see agreement, so I confirm that the committee will take those items in private.

## European Union (Withdrawal) Act 2018

### Waste and Agriculture (Legislative Functions) Regulations 2021

10:06

**The Convener:** Agenda item 2 is on a consent notification in relation to a United Kingdom statutory instrument. The instrument is being laid in the UK Parliament under the European Union (Withdrawal) Act 2018 and has been classified as type 1. The instrument is also being considered by the Rural Affairs, Islands and Natural Environment Committee and the Net Zero, Energy and Transport Committee. Does any member wish to comment?

As no member wishes to comment, does the committee agree to approve the Scottish Government's proposal to consent to the provision being made by the UK Government in a statutory instrument laid in the UK Parliament? In agreeing to do so, does the committee agree to seek further information in relation to the following: how the Scottish Government would replicate the requirement that applied to the European Commission for any amendments to the regulations using those powers to achieve a high level of environmental protection; whether any regulations amending the requirements of the Management of Extractive Waste (Scotland) Regulations 2010 would be subject to the negative or affirmative procedure; why the Scottish ministers consider it appropriate that the new powers will be conferred not just on them but on the Secretary of State for Scotland, subject to a consent requirement; and in what circumstances the Scottish Government would consider it appropriate for the UK Government to legislate in that area?

I see from the screen that there is agreement that we will seek further information.

## Subordinate Legislation

### Valuation and Rating (Coronavirus) (Scotland) Order 2021 [Draft]

10:09

**The Convener:** Item 3 is an opportunity for the committee to take evidence to inform its scrutiny of the draft Valuation and Rating (Coronavirus) (Scotland) Order 2021. This is the second of three sessions that the committee is holding on the order.

This year's programme for government sets out the intention to introduce primary legislation to prevent the use of the material change of circumstances provision in relation to Covid-19. The secondary legislation on the same matter, which relates only to the period since 1 April 2021, is being considered first, as it can be approved within a shorter timescale. Although today's discussion focuses on the secondary legislation, the same principles and issues will pertain to the upcoming primary legislation, so it is important that we take the time to fully understand and explore the issue.

I welcome our first panel. David Magor is the chief executive of the Institute of Revenues Rating and Valuation. Martin Clarkson is a member of the business rates working group at the Scottish Property Federation. Pete Wildman is the vice-president of the Scottish Assessors Association, and Alastair Kirkwood is a past president of the association. Charles Golding is a senior specialist in valuation and investment advisory at the Royal Institute of Chartered Surveyors.

We will move straight to questions. I ask witnesses to please type R in the BlueJeans chat function if they wish to respond to a question or to contribute to the discussion. The chat function should not be used to write responses to questions, as they will not be recorded.

The committee understands that many businesses, particularly small ones, have been very hard hit by the pandemic and that the proposed order might feel like another obstacle to recovery. However, we also understand the Scottish Government's perspective that market-wide economic changes to rateable values should be considered only at the point of revaluation, to ensure fairness to all ratepayers, not all of whom have the resources to lodge appeals.

Do the witnesses believe that material change of circumstances appeals are an appropriate route for supporting businesses in the face of such a widespread impact, or would they like to see alternative forms of business support that might be fairer or more effective?

**David Magor (Institute of Revenues Rating and Valuation):** The problem with this particular issue is that, although appeals will affect the rate base, we cannot deny the ratepayer the right to appeal. The order would remove that right to appeal, which would weaken the position of the ratepayer and mean that their bill would remain at the full rateable value.

That said, if there was a massive reduction in values as a result of MCC challenges because of Covid, that would affect the level of rates income for the Scottish Government, which would then have to seek alternative sources of revenue to make up the shortfall. As a result of the changes, there will be a Barnett consequential of about £150 million, but I suspect that that is nowhere near the value of the individual reductions in liability to the ratepayers if they make MCC appeals.

It is a difficult situation, because the ratepayer needs to be supported through a difficult period. Lots of businesses that have not received relief from the Government are trying to meet their full rate bills but they do not have the resources, because they are not necessarily trading in a fully effective way. One of the only ways in which they could reduce their outgoings would be by making a successful challenge on the ground of a material change in circumstances, but that would have the overall effect of a reduction in income for the Scottish Government, which would create problems in other areas. It would leave section 95 officers in a difficult situation, with budget shortfalls.

**The Convener:** Thank you for that response and for seeing it from both perspectives.

**Martin Clarkson (Scottish Property Federation):** I think that the question was centred around the forms of assistance in the context of MCCs. The SPF, which represents a broad spectrum of property owners, occupiers and advisers, clearly welcomed the targeted relief that was granted, most notably through two years of rates relief through the retail, hospitality, leisure and aviation forms of relief. The targeting of the beneficiaries was well intentioned. With the benefit of hindsight, it has been observed that other occupiers, landlords and other ratepayers might have been overlooked or might have fallen through the cracks. Nevertheless, I put on record that acknowledgment of the assistance that was granted.

10:15

Material change of circumstances appeals—MCCs—are the cornerstone of rating legislation across the whole of the United Kingdom, and they have been since its inception. Seeking to cancel

the right of appeal is, as the previous speaker mentioned, really unwelcome. It defies natural justice. Cancelling it would have knock-on effects for the people who did not benefit from the reliefs that we have mentioned, and it might have future repercussions, even into the next revaluation, if ratepayers, landlords, occupiers or whoever were denied the right to have that tested. However, the Scottish Assessors Association, under its statutory duty, had an obligation to address the issue and consider whether we could avoid the need for material change of circumstances appeals, which are now partly stymied in the appeals in court and tribunal process.

I will end there and allow others to contribute.

**The Convener:** Thank you, Martin. If anyone else would like to come in on that question, please indicate that with an R in the chat function and I will call you. I will give you a moment to do that before I move on. While you are doing that, I note that Mark Griffin, who is a committee member, has sent his apologies. I see that Charles Golding and Alastair Kirkwood would like to come in.

**Charles Golding (Royal Institute of Chartered Surveyors):** I will start my evidence by saying that RICS membership is made up of a range of people. It includes people from local government, Scottish assessors, people acting for ratepayers and ratepayers themselves. There is no consensus on many of the points that will be raised, but, in my answers to questions, I will speak to the public advantage in general, which is embedded in our royal charter.

In answer to the specific question, we are looking, ultimately, for a fair and equitable system. As was mentioned, the circumstances are unprecedented and very difficult. The reliefs that have been given to business are, therefore, very much appreciated and we would like them to continue, where appropriate, and also to be extended. Recognising that the circumstances are unprecedented, we would like to maintain the rights of appeal in the system, where necessary, but that should not be taken as a precedent for later appeals, as matters go on. Many of our stakeholders have said that appeals have been made with good intentions and good will and that it was appropriate to have those within the system, which is something that we would look to.

Finally—I am sure that this point will come up later in the discussion—there are opportunities for reform in the system, which we would like to address, where possible, in order to ensure that some of the problems will not arise in the same way in the future.

**Alastair Kirkwood (Scottish Assessors Association):** Thank you for the opportunity to

present evidence to the committee. It is much appreciated.

I recognise that the whole world is affected by Covid and that the matter is not entirely for rating professionals, albeit that our comments will focus very much on the rating sphere. With Covid, we are dealing with something that is wholly unprecedented. For a range of reasons, the issue is far more extensive and complex than anything that the world—and the rating system, in particular—has dealt with before. I would welcome the opportunity to discuss the complexities and their implications.

One would not wish appeals that have been lodged to be ruled out, in effect, but we must recognise the wholly exceptional circumstances that we are in—particularly the other reliefs and benefits that have been, and could continue to be, granted in one form or another. I hope that I will have the opportunity today to talk about the nature of the property market; the particular circumstances of Covid-19 that present unique challenges for that market; the number of appeals that have arisen as a result, which I can expand on; and other issues, such as further appeals that could be lodged following any actions that are taken. Another issue is that we are about to move appeals to a new tribunal service, with effect from 1 January 2023.

Overall, the SAA's view is that the situation has particular complexities that the rating system does not deal well with. There are better and more targeted ways of applying relief and benefit to businesses that genuinely require such relief and benefit. They are not best served by the rating system becoming bogged down in arguments about the question in the coming years through litigation. The focus should be very much on the forthcoming revaluation in 2023 and on allowing businesses to settle and adjust to the changes that have come with Covid, as well as ensuring that the 2023 revaluation reflects that, so that we have a solid basis for going ahead in the aftermath of the Covid situation rather than the immediate ups and downs that have been experienced.

I am happy to pause there. I would welcome opportunities to come back on any or all of those points.

**The Convener:** The next theme is the principles of taxation, which Martin Clarkson spoke about. To continue with the theme of fairness, does the Scottish Government's proposal to retrospectively rule out appeals on the basis of Covid-19 run counter to the principles of fairness and certainty that underpin the Scottish Government's approach to taxation? Is the approach justified by the unprecedented circumstances of the pandemic? Alastair Kirkwood has addressed that to some degree.

**Charles Golding:** There is a difficult balance to strike between achieving the timing needed to get reliefs to businesses and ensure that the system is effective in respect of Covid-19, and maintaining the valid appeal rights that are in the system. We ask for the balance to be considered in the legislation and in its application.

**David Magor:** Denying the ratepayer the right to challenge their assessment is wrong. The proposal to apply that with retrospective effect is damaging the rating system's credibility in some respects. However, Alastair Kirkwood is right that we are talking about a short-term situation. The Government's awarding of the retail, hospitality, leisure and aviation relief has been successful and has been welcomed by commerce and industry.

The denial of appeal rights could have been cushioned by the award of centrally funded adequate reliefs. The problem is that there is a large number of appeals that are worthy appeals under the legislation as it stands. If that legislation is altered or repealed, and any such move is retrospective, those ratepayers will need to be compensated in another way. The obvious way would be a relief scheme, which would need to be targeted.

Whether the revenue from the Barnett consequential will be sufficient is a point of debate, but I suspect that, if there are 49,000 appeals to deal with, £145 million will not be enough. I have not done the detailed sums, but you have to ensure that you are relieving the ratepayer of the burden of their rate bill if they have been unable to trade or operate. For example, the appendix to the submission to the committee mentioned car parks. They are a major issue, as they have been effectively rendered useless through people not being able to go shopping and so on.

The important thing is to strike the proper balance. You have to support the ratepayer and ensure that they are able to continue commercially while at the same time ensuring that local government does not lose any revenue. That is a very delicate balance for the committee and the Government to strike.

**The Convener:** Thank you very much for that perspective. Martin Clarkson wants to come back in.

**Martin Clarkson:** I will be very brief, convener. The previous speaker covered most of the points that I was hoping to make, but I would just reiterate that, although not unprecedented, retrospective legislation in any sphere—and in taxation most of all—is very unusual and invariably extremely unpopular. As David Magor has said, it undermines credibility, and it also impacts hugely on the ability of businesses to programme and

budget effectively, efficiently and with any certainty. The whole concept of retrospective adjustments is therefore unattractive and unwelcome and, as far as the rating sphere is concerned, a major cornerstone of legislation and practice for decades is potentially under threat.

Finally, as has been pointed out in some of the submissions to the committee, the pandemic was unprecedented and, indeed, was the material change of circumstance event that satisfied all the requirements and criteria. Coming back to the point about credibility, I would ask this question: if the pandemic itself is not deemed a competent material change event that must be addressed, what would be?

**Alastair Kirkwood:** Clearly, no one would wish appeal rights to be disposed of in unjustified circumstances, but I would just highlight how exceptional this circumstance has been across the world and particularly in property markets. If you will allow me a minute or two, convener, I will happily go through some of the difficulties and challenges that are faced by such markets in reacting to such a circumstance and addressing it through the appeals system.

My first point is on the nature of the property market. Quite simply, rateable values reflect rental values and, of course, rental markets are not quickly or readily fixed. Generally, the property market reflects changes over a period of time, and it can be slow to react to shock changes and find it difficult to react to temporary and inconsistent changes in economic circumstances. Perhaps I can explain this a bit further. A business will go through certain processes in considering the implications of changed economic circumstances and adapt its business model in response, but it has to translate that into an understanding of the impact on the rental value of its property; negotiate the matter with the landlord, who will clearly want to maximise his return; and then translate that into a hard-and-fast lease agreement or adjustment to such an agreement. It generally takes months—if not longer; it can often take years—for the transactions to be resolved. It is only once those are resolved that rating valuers can assess what the impact has been on the rental values of properties and reflect that in rating assessments.

10:30

The Covid pandemic has led to a range of complexities that we have not seen before. The situation has been particularly fast moving, complicated and inconsistent. Initially, there was a national lockdown, but not every business was closed. Some shops, such as food shops and takeaways, were allowed to trade, but others, such as fashion shops and book shops, were required to close. Lots of industrial premises stayed open



throughout that period, but some did not. Some offices—in large part, those that were used for essential services—remained open, but others were closed.

After the lockdown, we had a series of changes involving different parts of the country having different levels of restrictions at different times. Restrictions were in place for a certain period of time and then they were lifted.

Another complication is that the relief and grant structure affected businesses to different extents. Some businesses benefited greatly from a particular form of relief, but others did not. Support was not necessarily based on the type of property that was occupied; it was perhaps based on the nature of the business itself—the extent to which it benefited from the furlough scheme, for example.

It was a very complicated picture. Given that the situation was so fast moving, it is difficult to see how landlords and tenants can agree on a rental figure to reflect the various step changes to the process.

For those reasons, assessors and the SAA consider that a better way of reflecting that picture is to allow the markets to stabilise and take account of the various factors that have changed over this period and to ensure that the 2023 revaluation goes ahead. That should allow a stable process that, we hope, will reflect the various changes that have been brought about by the difficulties. It is very difficult to see how the individual changes—a deadline here or a restriction being applied or lifted there—can be translated into rental values and then into rateable values.

I noticed that—

**The Convener:** We have quite a few questions to get through and about half an hour left for the session. It has been great to get an overview, which has been helpful, but our questions might draw out some of those issues. If you do not mind, in the interest of time, I will move on, but you can perhaps squeeze in more of what you wanted to say if those issues are not drawn out elsewhere. Is that okay?

**Alastair Kirkwood:** Yes.

**The Convener:** There are four more themes to cover: the parliamentary procedure, workload issues, the impact on local government revenues, which we have already touched on, and other types of support. Paul McLennan will pick up the theme of parliamentary procedure.

**Paul McLennan (East Lothian) (SNP):** I welcome the witnesses. I refer everyone to my entry in the register of members' interests, as I am a serving councillor in East Lothian.

As the convener said, my questions are about the parliamentary process. Has there been sufficient consultation on the proposals? Have the witnesses had sufficient opportunity to comment on them? Would there have been more opportunity for stakeholders to feed in their views if the changes had been introduced via primary legislation? I ask Alastair Kirkwood to comment on that first. Please be as brief as you can.

**Alastair Kirkwood:** The SAA is not aware of there having been a formal consultation, but we have been in contact with the Scottish Government's local government taxation team throughout the pandemic. We have fed in our views on various matters to the Scottish Government over that time. There has not been a formal consultation, but I believe that the SAA's views have been reflected by the officials concerned.

**Paul McLennan:** Thank you for that. Do you have any comments on the changes being introduced via primary legislation?

**Alastair Kirkwood:** We understand that there is a bill to follow and there will be further consultation on that. I understand that the same process was used in England, with an order in the first instance followed by a substantive bill thereafter. I am not sure of the rationale for that and, to be honest, I am probably not the best person to comment on it. I recognise the circumstances, but I do not have a particular position on that.

**Paul McLennan:** Does anyone else want to comment on that? It seems not. Thank you.

**The Convener:** We will move on. Miles Briggs and Elena Whitham have some questions on the theme of workload issues.

**Miles Briggs (Lothian) (Con):** Good morning to the panel. My questions are about the workload for assessors and valuation committees. First, will you outline your thoughts on the potential implications for that workload and the system if we allow coronavirus-related MCC appeals? I ask Alastair Kirkwood to comment first, and then Charles Golding. If anyone else wants to comment, they should type the letter R in the chat box.

**Alastair Kirkwood:** I will try not to make my answer too long. I should perhaps start by mentioning the volume of appeals. In the two weeks leading up to the end of March 2020, just after the Prime Minister's statement to the country, assessors received some 47,700 appeals on the basis of Covid-19. During the following financial year, we received another 44,600 appeals on the same basis. I suggest that, if the general plan did not proceed as outlined in the order, we would receive the same volume again—another 40,000-odd appeals.

I accept that a number of the properties in those figures would be the same, because a number of people would have appealed in all three financial years, but that would take us to a total of about 130,000 appeals that needed to deal with. To put that into perspective, I note that at the 2017 revaluation across the country we received just under 80,000 appeals, and at the 2010 revaluation we received 71,000 appeals. At a revaluation, it normally takes us two to three years to dispose of the 70,000 to 80,000 appeals.

As I alluded to earlier, the appeals that we are discussing today are more complicated to deal with than normal revaluation appeals, so I certainly would not envisage that the time that it would take to deal with them would be any shorter. I would expect them to require a considerable amount of litigation and there are some fairly complex aspects of law that would need to be addressed so, overall, it would be a lengthy exercise to resolve the appeals.

If values were reduced as a number of people in some sectors expect, but assessors were then required to go back and increase the values again, that would open up another set of legal dilemmas and potentially another set of appeals and challenges. I will happily go into the complexities of those legal issues and the processes but, in summary, that is the position. It would be an understatement to say that it would present challenges to complete the appeals and deliver the 2023 revaluation.

I will pause there in order not to take up too much of the committee's time, but I will happily go into any of those points in more detail if that would be of assistance.

**The Convener:** Thanks, Alastair. If we have time at the end, we might come back to that. I see that Pete Wildman would like to comment.

**Pete Wildman (Scottish Assessors Association):** Thank you for the opportunity to speak. I have heard quite a lot of the points that Alastair Kirkwood has made. The focus really needs to be on delivering the 2023 revaluation timeously and to a good standard. The volume of appeals will inevitably take a lot of resource from assessors and, as Alastair Kirkwood explained, rating relief is in many ways a quicker and more targeted approach than a long and complex drawn-out appeal process that could risk delaying the 2023 revaluation. That revaluation will reflect all the trends over the past seven years, rather than just one point in time.

**Charles Golding:** On a purist reading of the situation, if the order that we are discussing were not to go through, the appeals proceeding would be the fairest option in the interests of equity and justice. However, we are in the economic market

and system realities that exist because of Covid-19. Were the impact of appeals to be such that it affected the revaluation process and the system, that would be less to the public's advantage, as other witnesses said.

We are asking Government and Government agencies to set out as quickly as possible how appeals will be dealt with—with or without the legislation—and what the process will look like in future.

**Martin Clarkson:** I do not deny the scale of appeals that Alastair Kirkwood set out, but I want to briefly say, for the benefit of committee members, that those appeals were necessitated by the statutory timetable with which we have to work in Scotland. I will not go into the technical niceties, but that is what necessitated the bulk and timing of appeals.

Ultimately, those appeals, and particularly the ones that were lodged at the start of the pandemic, were protective appeals. It is understandable that businesses were slightly panicked by the whole situation. I will speak with my adviser hat on for a second: we, along with many others, have a duty of care to business clients and it would have been remiss not to have lodged appeals, because the rating system allows—or at least has allowed—MCC appeals to be lodged. At the time, no one could predict how the pandemic would play out.

Finally, I make another technical point in relation to what Alastair Kirkwood said. If rateable values were to go down but the previous levels subsequently had to be reinstated or increased, I think that the wider world would welcome that, because that would signal the end of the pandemic—that would be the only trigger for that to happen. I am not at all fearful of that scenario, if it happens between now and the next revaluation.

**The Convener:** Miles Briggs, do you have any more questions?

**Miles Briggs:** No, convener, thank you. My questions have been answered and I am happy to hand over to the next member.

**The Convener:** Okay. I will bring in Elena Whitham.

**Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP):** Thank you. I should declare an interest, as I am a serving councillor on East Ayrshire Council and a former member of a valuation joint board.

My first question is for Pete Wildman and Alastair Kirkwood, to get the assessors' perspective. Would additional resources be required to process the appeals? What impact would there be on other areas of work? We know

that other appeals are being dealt with and that there is work on the next revaluation.

I also want to ask Martin Clarkson, David Magor and others who come at this from the property perspective whether workload should be a valid consideration when it comes to deciding whether to allow the appeals that we are talking about.

**Pete Wildman:** An issue for assessors is that the appeals are complex, as Alastair Kirkwood said, and they are dealt with by chartered surveyors. Assessors are struggling to recruit qualified staff, so putting in more resource could be a challenge. It would be a challenge to find suitably qualified people to take on the additional workload and deliver the revaluation at the same time.

The focus for us should be on the revaluation, because that delivers a benefit to all ratepayers, as all properties are revalued as part of the process.

**Elena Whitham:** Thank you. Does Alastair Kirkwood have any further perspective on that point?

10:45

**Alastair Kirkwood:** I echo that point. We are moving into a system of three-yearly revaluations, and the whole point of three-yearly revaluations is to be more reactive to the market. That process will kick off with the 2023 revaluation, and it is welcome. We had been staffing up in order to move towards three-yearly revaluations, but we have found acute difficulties in recruiting staff to serve that purpose, so there was already a challenge in that respect. The challenge is not with resources, because the Scottish Government has provided resources to appoint staff; it is that there are not enough people available or willing to take up those posts, so we have not yet been able to fill them. Additional resources are not necessarily the answer.

The problems are more deep seated: there will be complex appeals and litigation, which will go on for a considerable length of time, regardless of the staffing resource.

Those are the two challenges that have been presented.

**Elena Whitham:** Thank you for that, Alastair.

David Magor, should workforce considerations form part of the decision whether to allow or disallow MCC appeals?

**David Magor:** No, I do not think that workforce issues should be taken into account. As I have said before, that would risk undermining the rating system. The best solution for that particular problem is one that allows MCC appeals to go

forward or one that effectively stops them—via legislation—and replaces them with an adequate relief scheme.

We are implementing the Barclay review's recommendations for three-yearly revaluations. Allowing those appeals to carry on, and not replacing the system with a more effective and targeted relief scheme, is putting the revaluation at risk. Points have been made—in particular by Alastair Kirkwood—in relation to the impact of the outstanding number of appeals and their consequential effect, and then reversing those appeals, possibly within a timescale that leads up to the next revaluation. I remind the committee that the antecedent date is 1 April 2022, and we are now in November 2021, so time is short.

I suspect that it is impossible for the assessor to deliver the necessary legal precedents, having regard to the antecedent date, and deal with the appeals in parallel. To me, that looks like an enormous task. I am not in the same position as the assessors. I have the advantage of being the chief executive of a professional association that can comment on these issues. I believe that it is a massive mountain for the assessors to climb.

**Elena Whitham:** Thank you. Charles Golding would like to come in before I hand back over to the convener.

**Charles Golding:** As we are talking about some of the technical rating and process issues, I would like to mention that the main contacts that I get are from ratepayers and tenants, who perhaps do not understand those process issues but, ultimately, are seeking the right answer and a fair rate of payment. Compromise is needed, but we must explain how a relief system will work and, if appeals are not allowed, how that is fair and equitable alongside the other measures that are put in place.

**Elena Whitham:** Thank you. I see that Martin Clarkson has typed R in the chat function, so I ask him to come back in. Please be very brief, because we have only 10 minutes left.

**Martin Clarkson:** I will be very brief.

Clearly, there are resourcing issues on both sides of the divide. In every respect—almost on a human level—I am sure that everyone at this meeting would rather that we were not having this discussion. The resourcing issue is twofold. This might be a prelude to the final section of our discussion, but I will pick up on the last point. If the MCCs are, ultimately, to be retrospectively removed, there has to be a reciprocal, retrospective revisiting of the relief landscape. With the benefit of hindsight, I think that that must now be open for discussion.

**Elena Whitham:** Thank you.

**The Convener:** We move on to the theme of impact on local government revenues.

**Meghan Gallacher (Central Scotland) (Con):** Good morning. I declare an interest as a serving councillor on North Lanarkshire Council.

I will touch on local authority revenues, which David Magor and others have mentioned already. Would allowing for appeals that would reduce non-domestic rates income and require the Scottish Government to compensate local authorities be an effective use of public funds?

**David Magor:** Assuming that such appeals are allowed, there would be a loss of revenue to local authorities and that revenue would have to be replaced. There is no choice. The alternative would be to reduce services, which is the last thing that anybody who is involved with local government would want to do.

The reality is that the ratepayers are suffering. When the pandemic started, the legal, legitimate thing to do was to make MCC appeals. For good reasons, we find ourselves in the current situation, and there is a move to remove that right to protect local government funding. We should protect local government funding by doing that but, at the same time, we should ensure that ratepayers are properly rewarded and that recognition is given to whatever effect the pandemic has had on them, such as the fact that their business has been in decline or they have not been able to trade. We need to ensure that the effect is balanced.

The other long-run issue, which witnesses on the next panel can perhaps deal with, is that, if you have a relief scheme, you must give clear guidance to local authorities on how to distribute it. It is critical that you distribute the relief fairly across all local authorities. That is a massive issue on which you would need to have some consultation to ensure that the relief is distributed fairly. However, that appears to be the only way forward to protect the ratepayer and local government funding.

**Meghan Gallacher:** I do not see anyone indicating in the chat bar that they want to come in. Does Martin Clarkson have any additional comments to make?

**Martin Clarkson:** I echo David Magor's comments and reiterate the last point that I made. If MCC appeals are to be cancelled, the door must remain open to some retrospective revisiting of reliefs, whether more targeted relief or blanket, across-the-board relief.

Without getting political, I understand that there will be consequentials from the Westminster budget, so there is an expectation that more funding will be available. It is up to the Scottish Government where it targets that funding, but one

option could be to provide reliefs in lieu of material change of circumstances appeals.

**Meghan Gallacher:** My second question has been addressed by both the answers that have been given. If there are no other comments, I am happy to hand back over to the convener.

**The Convener:** Thank you, Meghan. We move on to theme 6, which concerns other types of support.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** Good morning, everyone. We have already mentioned other forms of support and relief. Back in March, the UK Government announced a £1.5 billion fund for further reliefs for business rates, Scotland's share of that being around £145 million, as was mentioned. We have not seen any of that money yet, but is the more targeted method of distributing that support by our councils a better way to help than to engage in an MCC appeals process?

**Alastair Kirkwood:** I agree that there is a better way of allocating support. I have talked about the complexities and difficulties of the property market with regard to reflecting changes, and the fact is that changes in the market are not necessarily applicable to those who require the most benefit. Using the property market is a very imprecise way of targeting relief. Previous reliefs that were put in place were effective because they were targeted, and I would certainly suggest that that would be a better approach to the matter.

I will pause there, convener, but I can come back in if you want me to clarify anything.

**Willie Coffey:** The last time that we took evidence on this issue, we heard that, unlike bigger businesses, small to medium-sized enterprises tend not to use the appeals process, so there might be an imbalance with regard to the benefits of such a process. A targeted fund might, when it arrives, be a better and perhaps fairer way of distributing support around Scotland's businesses. Perhaps Martin Clarkson, David Magor or Charles Golding can comment on that.

**Martin Clarkson:** The potential difficulty with the unfolding of this scenario is that there might be some question marks over the recipients of future retrospective relief—if I can put it that way. Going back to some of the themes that have been introduced this morning, I would, with the benefit of hindsight, reference as an example a move that was well intentioned at the time: the blanket retail relief that applied to the likes of the large supermarkets. Of course, I do not wish to single out any subsector, but I note that, almost across the board, they chose to repay that relief. There were other, perhaps less obvious, sectors; indeed, I would highlight as an overriding example those landlords who fell through the cracks and were

denied grant aid or Covid relief, just because of the technicalities of empty property reliefs. I would say that they are no less deserving of help, but the difficulty in that respect is the perception of additional relief being redirected to such areas. I am not saying that that is a bad thing—the whole landscape will have to be considered very carefully, and I am all in favour of it.

**The Convener:** Does anyone else wish to respond to Willie Coffey's questions?

**Charles Golding:** With some of these issues, the devil will be in the detail to a certain extent. Assumptions around the occupation of properties by particular business sectors or how much they occupy do not always play out. Relief should be targeted, but we should also look at the impact of Covid-19 on individual sectors and markets to ensure that relief is appropriate. I note that in the previous evidence-taking session there was wide acceptance of the need for hospitality and leisure reliefs, but there was also some feedback on relief not being granted in some parts of those sectors, because of the technicalities of property arrangements. It will therefore be essential to look at how targeting works in an expanded relief programme.

**The Convener:** Thank you for that important point. I do not think that anyone else wishes to respond, but, as we have a little bit of time left, I will go back to Alastair Kirkwood, who was cut off in full flow as he was laying a foundation for us. Alastair, do you want to get across anything else that you feel has not come across in the questioning?

**Alastair Kirkwood:** I would make only two points, convener, if I may. First, I have emphasised the complexity of these appeals, and I cannot overstate how long and difficult the process of resolving them will be if they go ahead.

Secondly, I just want to repeat a point made by a witness at the previous evidence session. There is no correlation between those who might have received a reduction in rent and those who need the Government's support; equally, there is no correlation between those who might lodge an appeal and those who, again, need the Government's support.

Those are the two points that I wanted to make, but I am happy that the thrust of the matter has been covered by the committee in its questions. I am happy to expand on anything else, if that would be of assistance.

**The Convener:** Thank you. It is a bit tricky to see, but I do not think that any member wants to come back on anything, so we will move on.

I thank the witnesses for joining us and for bringing their perspectives. Their contributions to our scrutiny sessions have been useful.

I suspend the meeting to allow a changeover of witnesses.

11:00

*Meeting suspended.*

11:07

*On resuming—*

**The Convener:** Welcome back. We will now hear from our second panel on the draft Valuation and Rating (Coronavirus) (Scotland) Order 2021. I welcome to the meeting Jonathan Sharma, policy manager for local government finance at the Convention of Scottish Local Authorities, and Kevin Fraser, principal officer for local taxes at Perth and Kinross Council. We will move straight to questions. If our witnesses wish to respond to a question or contribute to the discussion, they should type R in the BlueJeans chat function. The chat function should not be used to write responses to questions, as they will not be recorded.

We are covering a range of themes this morning, starting with the Scottish Government's rationale for the measures and moving on to principles of taxation. We will then cover parliamentary procedure, workload issues, the impact on local government revenues and other types of support. Some of that may come out earlier in the discussion, but I wanted to give you an overview of what we hope to cover this morning.

I will start with a question that I asked the previous panel. The committee understands that many businesses, particularly small ones, have been hit very hard by the pandemic and that the proposed order might feel like another obstacle to recovery. However, we also understand the Scottish Government's perspective that market-wide economic changes to rateable values should be considered only at the point of revaluation, to ensure fairness to all ratepayers, not all of whom have the resources to lodge appeals.

Do the witnesses believe that MCC appeals are an appropriate route for supporting businesses in the face of such a widespread impact or would they like to see alternative forms of business support that might be fairer or more effective?

**Jonathan Sharma (Convention of Scottish Local Authorities):** COSLA understands the rationale for the Scottish Government's policy intention in proposing the change in the regulation. We accept that there are exceptional

circumstances. Clearly, something has emerged in the rating system that feels distorted and, in that regard, the Government's response seems sensible. Were the appeals to continue and be successful, we would be extremely concerned about the impact that that would have on local government finance. However, we absolutely understand the challenges that businesses have faced from the impact of Covid-19 and the lockdowns. Local government has also faced huge challenges during that time.

Local government has played its part in delivering substantial grant support to businesses and rates relief, and it continues to provide some support. We are more than happy to have more discussion about that.

**The Convener:** Mr Fraser, would you like to comment on that?

**Kevin Fraser (Perth and Kinross Council):** I echo what Jonathan Sharma said about understanding the rationale. I highlight that, if the appeals do not go ahead, some additional support needs to be put in place, which ideally would be delivered by local authorities, which are close to the ratepayers.

**The Convener:** I will move on to a question on the principles of taxation, continuing on the theme of fairness. Does the Scottish Government's proposal to retrospectively rule out appeals on the basis of Covid-19 run counter to the principle of fairness and certainty that underpins the Scottish Government's approach to taxation, or do you consider the proposal to be justified by the unprecedented circumstances of the pandemic? You have kind of touched on that already.

**Kevin Fraser:** There is a tricky balance between fairness and certainty. You could probably argue that allowing access to appeals is fair but, because we do not know the amount of the appeals, what might be lost from the public purse or what the impact would be on local authority finance, allowing appeals would go against certainty. I wonder whether having managed costed appeals or other support would give more certainty than allowing the appeals to continue. Therefore, on fairness, I am probably kind of leaning the other way. It is a tricky balance.

**The Convener:** That is certainly what we have been hearing. Jonathan, do you want to comment on that?

**Jonathan Sharma:** I am happy to echo what Kevin has said. The real point to make is that the measure is really about protecting public finances—that is the key. It is absolutely about a balance between public finances on the one side and the fact that businesses are suffering on the other. Clearly, in some areas, businesses may feel as though they have continued to suffer and have

not been able to access some of the support that has been available in the recent period. As I said, we would welcome further discussion with the Scottish Government about what kind of measures could follow on, should the measure that we are discussing come in and the appeals be closed off.

**The Convener:** We will move on to theme 3, which is parliamentary procedures. My colleague Paul McLennan will pick that up.

**Paul McLennan:** As the convener said, my question is on the parliamentary process. It is a two-part question. First, was there sufficient consultation on the proposals, and did you have an opportunity to comment on the planned changes? Secondly, would there have been more opportunity for stakeholders to feed in their views if the changes had been introduced via primary legislation? I do not know who wants to answer that first—probably Jonathan Sharma.

11:15

**Jonathan Sharma:** I am not really an expert on the point about primary legislation—I will take advice from others. Perhaps Kevin Fraser has a view on that.

On the parliamentary process, I would not say that we have had specific consultation on the measure, but I am aware that Scottish Government officials have been speaking to the likes of the assessors, and they have also engaged with council directors of finance, which is helpful.

In addition, ahead of my coming here to speak to the committee, I have had some input from directors of finance in order to bring a view on the issue to the meeting. COSLA has not really taken a political position in this regard; I am relating the views that we are getting back from our membership and, in particular, from directors of finance.

**Kevin Fraser:** I do not have an awful lot to add. I apologise because, like Jonathan, I have not had an awful lot of involvement in that area. I am certainly not involved in much to do with that at the moment.

As Jonathan said, there has been plenty of discussion, but there is potentially an avenue for greater consultation. I am not able to say too much more on that.

**The Convener:** We will move on to theme 4, on workload issues, which will be introduced by Miles Briggs.

**Miles Briggs:** Good morning. I want to ask about the practicalities of reviewing valuations each time that coronavirus legislation or guidance

is amended. Do you want to add anything from your experience in that regard?

I do not know whether you had the chance to listen to the evidence of the previous panel of witnesses, but we heard that there are likely to be 130,000 potential appeals. What are your views on that?

**Jonathan Sharma:** Kevin Fraser will be able to say a bit more about workload.

I heard some of what the assessors said this morning. They talked about a fourfold increase in the number of appeals. Appeals are a tricky area at any time—a lot of work is required to deal with them, which takes an extended period of time. This will only serve to add substantially to that and it could become unmanageable. I refer back to whether there are alternative ways to support businesses, which is probably the way that we should go.

I will let Kevin speak.

**The Convener:** Kevin?

**Kevin Fraser:** Sorry—I was waiting for the screen to clear.

I was fortunate to listen to the previous evidence session; I was grateful for that opportunity. The assessors' workload will be phenomenal due to the volume of appeals, but the workload for our local authority administrative process will not be so bad. Ordinarily, appeals come through existing valuation appeals, rather than MCC appeals, and local authority processes for those are not too in-depth. We get the information from the assessor, amend the account and send out a new bill. The work for a local authority for each appeal case is not significant; it would be about the volume of cases more than anything else.

Appeals used to come with interest on overpaid rates, but that has gone because the interest rate has been zero for a significant length of time.

Processing appeals is not a huge workload burden for a local authority; it is a burden, but local authorities would not be affected to the same degree as the assessors and the appellants. Putting through the appeals and the appeal panels are where the bulk of the work would fall.

**The Convener:** Do you want to come back in, Miles?

**Miles Briggs:** No. Both my questions have been answered, so I am happy to move on.

**Elena Whitham:** I welcome the new panel.

My questions arise from the evidence that we heard from the last panel and relate directly to local government. One of the panel said that, should MCC appeals be disallowed, we may need

to revisit the reliefs and support offered to businesses at the height of the pandemic.

My questions are about the knock-on effect on local government workforce pressures, which we know have been huge over the past couple of years. Would it be an issue if we had to revisit the reliefs and support that we have already given out, and should workload pressures form part of the decision-making process that we are undertaking?

**Jonathan Sharma:** I have been involved in a lot of the business grant support—I am sorry; I keep calling it “support”, but it is grants to businesses—and I have been able to observe the sheer amount of commitment and workload that has surrounded those grants. It would be a substantial ask for local government to revisit that, and it would have to be resourced. We know that the Scottish Government has responded by looking at simplified ways of delivering the business support. There are opportunities to do things a bit differently to the last time that they were done.

Local government will deliver it, if that is what is required. The best way to do that is for local government and the Scottish Government to have discussions as early as possible about what support we will bring over the next period. Clearly, things have not worked themselves out as quickly as we would all have hoped. We need to sit down with the Scottish Government a lot more in relation to that. We have not really heard anything about its proposals going into the next Scottish budget; although that discussion is there, it needs to develop a bit more.

**Kevin Fraser:** On the retrospective element, the grants were a huge bit of work that local authorities did—which, if I may say so, they did very well.

The issue with retrospection is around doing a bit more work to understand where the gaps were and what types of business we feel were not adequately supported. It is about doing some work on that to try and minimise the amount of resources required to do it, and looking at specific schemes rather than opening it up on a discretionary level.

**The Convener:** We will move on to theme 5 and questions from Meghan Gallacher.

**Meghan Gallacher:** Good morning. I will touch on issues relating to local authority revenue. What specific issues might arise for local government finances—now and in the future—if there was a significant reduction in non-domestic rates income as a result of successful appeals?

**Kevin Fraser:** The first thing to note is the unknown. If appeals were to be successful, we would need to quantify the impact of that, and the drop in income for the Scottish Government would

have a completely unknown knock-on effect on local authorities. That would be the biggest challenge and difficulty.

As previous witnesses have said, services have to be provided and they cost money. Reduced income potentially means reduced services, so it is a case of getting that balance right.

**Jonathan Sharma:** Non-domestic rates income accounts for about £2 billion of local government budgets, so it is big money for local government. Should there be a significant impact on it, the Scottish Government would have to bear the risk of that in the shorter term. It would have to adjust the general revenue grant that councils receive for any drop in the rates income that they collect.

Ultimately, it is a question about the priorities in the Scottish budget. For instance, fairly large sections of the Scottish budget, such as health spending, are ring fenced in some way. If the Scottish Government has to continue to honour such spending commitments when there are cuts to its budget, it has to find some way to do that. Local government is the biggest party that is likely to encounter that. The effects might work their way through over a longer period of time, but there would be a substantial impact.

**Meghan Gallacher:** If time allows, convener, I will ask a quick follow-up question. Is that okay?

**The Convener:** Yes.

**Meghan Gallacher:** On the back of the answers that the witnesses have just given, I am interested in whether they believe that the requirement for the Scottish Government to compensate local authorities for a reduction in non-domestic rates income is an effective use of public funds.

**Jonathan Sharma:** I could probably do with the rest of the day to discuss that. At the moment, councils collect non-domestic rates income and the funding comes via the local government settlement. In that regard, there is a commitment from the Scottish Government to bear the risk of that.

From a local government point of view, we have talked about that on many occasions with the Scottish Government, and COSLA has a position on having greater fiscal empowerment at the local level. Obviously, risk is transferred with that, too. With regard to non-domestic rates, we have called for a discussion about the art of the possible and whether local authorities could have some, or perhaps all, of the powers returned to them. That is a much longer-term area of work and, were that to happen, a huge number of things would need to be considered, because we would be, in effect, transferring risk away from the Government. I do not know whether that answers your question. Was it the public purse that was the issue?

**Meghan Gallacher:** Thank you. That is useful in allowing us to understand the effectiveness of the appeals process.

11:30

**Kevin Fraser:** I agree with Jonathan Sharma. One other point is that, if income reduces from one stream, such as non-domestic rates, you have to either reduce services or find income from somewhere else. The worry is that that risks potential increases to council tax and all the difficulties that that would entail.

**Meghan Gallacher:** Thank you.

**The Convener:** I have a supplementary question on the topic, which Jonathan Sharma started to go in the direction of answering.

The Scottish Government's shared policy programme with the Greens includes a commitment to devolve responsibility to local government to set non-domestic rates. What are your views on that idea? Would that increase revenue for local authorities? Would local authorities have the capacity to take on that additional responsibility in due course?

**Jonathan Sharma:** We are looking to have that discussion—we recognise that that is a commitment—and we will not know the answer until we have done that and started to work out the pros and cons of doing certain things.

One of the things about setting non-domestic rates is that it brings a degree of democratic accountability to the local level. It does that with the business community. Obviously, communities elect councillors, but, sometimes, it feels that we do not have such a connection with the business community, which, I think, we would get from having control over non-domestic rates. It would also allow for local responses, so that a standard rate was not necessarily applied across the piece.

I appreciate that there are arguments about postcode lotteries and everything else, but it would be beneficial to have those discussions to see whether there is a better, more effective and more responsive way of using the rates system to support businesses, as well as to take money from them.

**The Convener:** Does Kevin Fraser have anything to add to that?

**Kevin Fraser:** I have little to add to that. I highlight that we know that the empty property relief rate and the charges for empty property relief rates will be devolved to local authorities from 2023. That will give us a chance to explore, and probably encounter, some of the issues that would apply if we were to take wider or full autonomy of non-domestic rates.



The only other thing to mention is that there would need to be some kind of equalisation scheme between local authority areas that are rich in business and those that might have less of a commercial profile.

**The Convener:** Great—thank you for that.

We will move on to the sixth and final theme, which is other types of support. Willie Coffey will ask questions about that.

**Willie Coffey:** I want to touch base with you on the question that I asked the previous witnesses. In March, the UK Government announced a £1.5 billion business rates relief scheme. Scotland's share of that is £145 million, but we have not received the money yet. In principle, is that a better way to target support for local businesses compared with the MCC appeals process?

The previous witnesses told us that bigger companies and businesses tend to benefit more from the appeals process. Conversely, we were told that small and medium-sized enterprises tend not to benefit—they either do not appeal at all or they are not successful when they appeal. What are your views on the two approaches that are in front of us to choose from?

**Jonathan Sharma:** I think that we have touched on—*[Inaudible.]*

**The Convener:** I am not sure what is going on there. You should just go ahead, Jonathan. I think that there was a bit of unpinning and pinning of your video. If you go ahead, that will be great.

**Jonathan Sharma:** I said my best bit there, but I will try again.

We have touched on the business support that local government has delivered and is effectively continuing to deliver. The issue is whether we can move on a little from the reactive-type reliefs and supports that have been provided over the period. It is clear that there was a reason why that had to happen.

Businesses can be supported into recovery in a range of ways. Local government is well placed. We have economic development teams, and empowering them to work with businesses would mean that much more targeted support was provided.

We all recognise that the support that was provided was quite a blanket support, and it was not always taken up. Going forward, it is much more about how we support recovery and tailor support to businesses in a much more effective way.

**Kevin Fraser:** There are a couple of issues. One of the issues with SMEs not putting in appeals is that a lot of them are fully protected from rates reliefs at the moment, so they just look

at what they pay rather than the rateable value. That is probably an issue aside.

If support is provided through relief schemes instead of through a material change of circumstances process, it can be targeted at those who are in greatest need. More certainty is provided—if the criteria are put up straight away, people will know whether they will be entitled to the support, rather than their having to go through an appeal process. The support is also likely to be delivered more quickly. As I have said, certainty is the clear issue. It is good for businesses to know whether relief is there for them. An application process would be a quicker method of getting support than an appeal.

The only other thing that I will say about that is about the timing. If we were to bring in support schemes, local authorities would need clear details and time to set up and deliver. That would be our main plea.

**Willie Coffey:** The wholesale sector has sent a submission to the committee. It was caught between a rock and a hard place during the pandemic in that it was legally able to trade and perfectly able to do so, but it had nobody to trade with. It has made the valid point that, in the absence of any clarity about the relief scheme from the UK and Scottish Governments that I mentioned, it would prefer the appeal process to remain in place. I think that it fears that it might again fall through the net and not receive any support through a relief scheme. Do you have any views on that, particularly in relation to the wholesale sector?

**Jonathan Sharma:** I will let Kevin Fraser cover that mostly.

We need to have a discussion with the Scottish Government about where support needs to go, if there is going to be more support. The Scottish Government has been seeking to address the gaps and the last areas that would potentially benefit.

I go back to the point about what the benefit is that we want to offer to businesses. It might not be just that sector that is involved. There might be a much more tailored economic development focused approach.

I am probably repeating myself a little.

**Kevin Fraser:** In order to address some of those issues, there are two options: amending or introducing new relief schemes to address sectors that we feel were unjustly omitted from or included in previous support, or having specific grants as an alternative to relief. It is important to consider who has missed out on support and to ensure that there is enough discussion and understanding so

that fully rounded support can be given to everybody who needs it.

**Willie Coffey:** That is very helpful. Thanks very much.

**The Convener:** We have exhausted our questions. We really appreciate Jonathan Sharma and Kevin Fraser joining us to give us evidence. It has been very helpful for the committee to hear your perspectives.

As previously agreed, we will now take agenda items 4 and 5 in private.

11:40

*Meeting continued in private until 12:30.*

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