



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Finance and Public Administration Committee

Tuesday 6 February 2024

Session 6



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**FINANCE AND PUBLIC ADMINISTRATION COMMITTEE**

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

**CONVENER**

\*Kenneth Gibson (Cunninghame North) (SNP)

**DEPUTY CONVENER**

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

**COMMITTEE MEMBERS**

- \*Ross Greer (West Scotland) (Green)
- \*Jamie Halcro Johnston (Highlands and Islands) (Con)
- \*John Mason (Glasgow Shettleston) (SNP)
- \*Liz Smith (Mid Scotland and Fife) (Con)
- \*Michelle Thomson (Falkirk East) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

- Tom Arthur (Minister for Community Wealth and Public Finance)
- Mandy Callaghan (Scottish Government)
- John Kerr (Scottish Government)
- Karen Morley (Scottish Government)
- Laura Parker (Scottish Government)
- Ewen Scott (Scottish Government)

**CLERK TO THE COMMITTEE**

Joanne McNaughton

**LOCATION**

The Robert Burns Room (CR1)



# Scottish Parliament

## Finance and Public Administration Committee

Tuesday 6 February 2024

*[The Convener opened the meeting at 09:00]*

### Subordinate Legislation

#### Land and Buildings Transaction Tax (Miscellaneous Amendments) (Scotland) Order 2024 [Draft]

**The Convener (Kenneth Gibson):** Good morning, and welcome to the seventh meeting in 2024 of the Finance and Public Administration Committee.

Agenda item 1 is an evidence-taking session with the Minister for Community Wealth and Public Finance on the draft Land and Buildings Transaction Tax (Miscellaneous Amendments) (Scotland) Order 2024. The minister is joined by Laura Parker, land and buildings transaction tax policy lead, directorate for tax and revenues, Scottish Government.

I welcome our witnesses to the meeting and I invite the minister to make a short opening statement.

**The Minister for Community Wealth and Public Finance (Tom Arthur):** Good morning to you, convener, and to the committee.

The Land and Buildings Transaction Tax (Miscellaneous Amendments) (Scotland) Order 2024 provides for amendments to schedule 2A of the Land and Buildings Transaction Tax (Scotland) Act 2013 and introduces a new schedule 6A to the same act.

The amendments to schedule 2A relate to arrangements for the additional dwelling supplement. They address key stakeholder concerns about the existing legislation and ensure that the arrangements for the ADS work as intended.

New schedule 6A to the 2013 act provides extended relief from both residential LBTT and the ADS for local authorities purchasing property to meet local housing needs. It broadly aligns the treatment of local authorities with that of registered social landlords and will help to support our wider housing policies.

The Scottish Fiscal Commission considered the financial implications of the amendments in its December 2023 forecast, and the order was

developed following a thorough consultation and review process, which included an initial call for evidence and views, followed by a consultation on draft legislation. The result of that process is a package of amendments that address key stakeholder concerns with the current legislation, ensuring that taxpayers are able to claim the reliefs and exemptions to which they are entitled and extending support where needed.

I welcome the contributions from a wide range of stakeholder groups in developing the content of the draft order, and I hope that the committee will support the motion to approve it this morning.

**The Convener:** Thank you very much for that helpful opening statement. I should have said at the start that we have received apologies from Michael Marra, who is having transport difficulties and will not be here until later. I am afraid that we do not know where Ross Greer is, either, but we still have five members of the committee present.

I want to ask a few questions before I open the discussion to colleagues around the table. First of all, this Scottish statutory instrument appears to have been fairly broadly welcomed, but one or two issues have been raised with us. For example, in relation to the Scottish Police Authority, Police Scotland said:

“Despite acting under a statutory duty [Police and Fire Reform (S) Act 2012]; seeking to comply with the housing standards; and house acquisitions being funded by Scottish Government annual grant in aid, due to the lack of direct connection with housing legislation, no exemption from LBTT or ADS is available to the Scottish Police Authority.”

Why has the SSI not been viewed as an opportunity to change that position?

**Tom Arthur:** We are grateful to the committee for reaching out to stakeholders to get further evidence ahead of this session—it has been useful. We note the points that have been raised by the SPA, and we are looking into and carefully considering the matter, but it is not something that we were able to address in the set of amendments in this instrument. As the committee will appreciate, the role that local authorities play in relation to housing is quite distinct and different from that of other public bodies and authorities. However, we are looking at the matter carefully, and I am very happy to engage directly with the SPA on the matter and to update the committee in due course.

**The Convener:** The SPA has said:

“Whilst not a registered social landlord, the SPA has undertaken to align itself, in principle, with the requirements of housing associations and local authorities and has committed to working towards achieving the Energy Efficiency Standard for Social Housing ... and the Scottish Quality Housing Standard ... for its housing stock.”

It seems unfortunate, therefore, that the police have been omitted from the SSI. If the matter is being considered further, when would we expect an SSI to come forward on that basis?

**Tom Arthur:** I am not in a position to give timescales. We will consider any aspects pertaining to housing that are relevant to other public bodies. We will also consider the issue not only from the perspective of the tax—in this case, the LBTT—but more broadly through engagement with housing colleagues. As I said, I am more than happy for Government officials to engage directly with the Scottish Police Authority on the matter.

**The Convener:** The Chartered Institute of Taxation has said that the only issue with the SSI is that it is “overly restrictive”, and the Institute of Chartered Accountants of Scotland is concerned that the Scottish Government is bringing in the SSIs piecemeal. That certainly appears to be the case. ICAS has suggested, as have members of the committee such as Liz Smith, that we should have

“a regular fiscal Bill which allows for a point in time at which all amendments to legislation are carried out rather than undertaking piecemeal changes to tax legislation”.

Would that not be a good way forward given the fact that it looks as though you might have to lodge another SSI to include the Police Authority?

**Tom Arthur:** I recognise the interest in the matter. Liz Smith and I have had exchanges in the chamber on it, and there is merit in exploring it further.

An annual finance bill would be an undertaking for the Government, but it would also be an undertaking for the Parliament. It would be important for Parliament to be involved in that process and that would mean an important role for the committee. I recognise that the committee has a significant programme of work, but I am happy to engage with it to explore how we can build on the work that was undertaken before the pandemic through the devolved taxes working group. I am keen to look for ways to build on that, but it is important to recognise that, although there is an argument for an annual finance bill, we need to take account of the views of Parliament on how that would be managed.

We are considering this particular SSI as a result of a broad consultation and engagement process. We are also, through the Aggregates Tax and Devolved Taxes Administration (Scotland) Bill, seeking to amend the powers of Revenue Scotland. I appreciate that the committee will consider that legislation later in the spring, and I am sure that we will have the opportunity for further conversations in that space.

We are using legislative opportunities to bring forward reforms, whether that is in primary

legislation or, as the case is here, via an SSI. The fundamental point is that there is merit in looking for something that might be more legislatively neat and efficient. However, as I said, it is a matter not just for the Government but also for the Parliament, although I am happy to engage to explore what we can do going forward.

**The Convener:** South Lanarkshire submitted a short but interesting contribution. It talks about the flexibility or the lack thereof in the SSI. It says that it is important to

“recognise the need to ensure clarity on what is exempt from the tax”

and suggests that

“it may be beneficial to consider some flexibility in this area, particularly as current grant conditions do not cover all property acquisitions a local authority landlord may require to make”.

It goes on to mention particular groups, such as homeless households and Gypsy Travellers. Where is the flexibility in the SSI for local government to take the necessary decisions on specific groups with regard to LBTT and the additional dwelling supplement?

**Tom Arthur:** What is in the SSI reflects the work that was undertaken through the call for evidence and consultation, and the provisions in it relate to housing under the Housing (Scotland) Act 1987 and the Housing (Scotland) Act 1988. It represents progress, and I note that it has been welcomed by local government.

However—and this speaks to the point about the discussion of future reforms—this is a process rather than an event, and tax policy will continue to develop more broadly in the work that the Government is committed to doing on the refreshed tax strategy and the medium-term financial strategy, as well as on operational, administrative and technical matters.

I am happy to consider further the points that have been raised by the local authority as part of the on-going work. We always have to give detailed consideration to specific asks as we keep policy under review.

Laura Parker might have something to add.

**Laura Parker (Scottish Government):** That was pretty comprehensive. As the minister said, the Scottish Government engaged in an extensive consultation process with local authorities, and the draft order reflects the key ask from local authority stakeholders in terms of the scope of the relief. However, as the minister said, tax maintenance is important, and the Scottish Government is always happy to keep such things under review.

**The Convener:** What would be the financial impact on the Scottish Government of the SSI?

**Tom Arthur:** The SFC has given its forecast and, for most of the measures, it is below the immateriality threshold. It estimated a maximum of £7 million over the period with regard to the extensions of the timelines from 18 to 36 months, but we will see that even out.

**The Convener:** Over what period? Is that £7 million extra revenue for the Scottish Government or less revenue for the Scottish Government?

**Tom Arthur:** Laura, if you have the numbers in front of you, do you want to come in with the details?

**Laura Parker:** It is £7 million of relief given to taxpayers across the forecast. It hits that £7 million figure in 2028-29. Prior to that, it is slightly lower; for example, it is £1 million in 2026-27.

**The Convener:** For clarity, are you saying that, by 2028-29, it will be £7 million a year, or are you saying that it will be £7 million up to and including 2028-29?

**Laura Parker:** In 2028-29, it will be £7 million.

**The Convener:** Okay, so that is £7 million a year, in effect.

**Tom Arthur:** I note that the majority of claims for repayment of ADS tend to happen within 12 months, which is broadly similar to the equivalent taxes in England and Wales. The matter will work its way through over the forecast period. The figure of £7 million is for the end of the forecast period; in that respect, we will continue to monitor both the revenue and the SFC forecasts.

**The Convener:** It is important that the Scottish Police Authority is able to provide housing, particularly in rural and island areas. Do you have any idea how much relief would apply if, for example, they were included in a future SSI, or has that not been calculated as yet?

**Tom Arthur:** I do not have that number. However, the estate—the number of houses and hostels—that is covered by the Scottish Police Authority is a significantly smaller proportion of the overall property market compared to, say, that of local authorities.

As part of our engagement with the Scottish Police Authority, I am more than happy to explore that further and update the committee in due course.

**The Convener:** I will move on to the Scottish Property Federation, which said:

“Tax legislation will rarely cover each and every eventuality and given the potentially high taxation burden of ADS we continue to feel that a power to enable a relief for exceptional circumstances, to be applied on the discretion of Revenue Scotland, could bring additional fairness to the ADS system.”

The Scottish Property Federation went on to say:

“there is something of a missed opportunity to address these wider concerns which we raise.”

What are your comments on that?

**Tom Arthur:** I will make two points.

We have sought to address the circumstances that have given rise to the ask for an exceptional circumstances provision through some of the specific amendments that we make in the order. That should reduce the ask for an exceptional circumstances provision and is an important response to some of those specific circumstances.

We gave consideration to an exceptional circumstances discretionary power, but there is concern around administrative complexity and uncertainty, particularly for Revenue Scotland and taxpayers.

Through the order, we have sought to address some of the specific concerns that have been raised about the way in which ADS has operated previously. That is why we have not pursued an exceptional circumstances provision, but rather have sought a targeted approach to addressing some of the particular issues that have arisen previously.

**The Convener:** You talked about complexity, which was one of the issues raised by the Law Society of Scotland. It said:

“The law relating to the ADS is complex and nuanced. We do not consider that the amendments in and of themselves will simplify the law in this area – and in some cases may complicate the position for certain taxpayers depending on their circumstances.”

I am sure that colleagues may wish to give examples of those complications, which are in their papers.

What is your view on that? One would have thought that the whole purpose of this was clarity and simplification, yet the Law Society of Scotland appears to be of the view that the opposite is the case.

09:15

**Tom Arthur:** I recognise the complexity involved, and the issues that ultimately led to the call for evidence and the consultation on the draft order speak to that complexity. I received much correspondence from colleagues outlining their concerns about how ADS was operating. That is why we took forward this work, which seeks to address those concerns.

On the draft order specifically, Revenue Scotland will produce clear and comprehensive guidance ahead of 1 April, should Parliament agree to the order before us, which will be shared in advance. My understanding is that Revenue

Scotland has already shared its work with relevant stakeholders in tax, accountancy and law, and that it intends to host a series of webinars in advance of 1 April to ensure that sufficient information, guidance and awareness are provided on how the system will operate, should the order be approved by Parliament.

**The Convener:** I will now open up to questions from colleagues.

**Michelle Thomson (Falkirk East) (SNP):** Good morning, minister. I wish to raise a couple of wee points. In general, the changes to ADS in particular are welcome, because there were quite a few anomalies, as we know.

I just wanted to check something relating to a comment by the Chartered Institute of Taxation on situations in which somebody finds themselves in the position of taking inheritance of a property and then seeks to buy their own home. A provision of relief has been made for the period between the property being inherited and the conclusion of missives for the new property—or the purchase of the new property, I should say. The point is that missives are now invariably concluded on the day of purchase. That has been the case since about 2008. The days when people concluded missives and purchase would take place later have gone, because of the lack of availability of finance.

Could you explain your thinking in that regard? It seems like a relief that will get very little take-up altogether. Therefore, people will still continue to be impacted, through no fault of their own and with no choice, in situations in which they inherit a property but still need to buy their own family home. Could you provide a bit more context around that?

**Tom Arthur:** As much as I made reference to having received correspondence from colleagues on the operation of ADS, the system overwhelmingly works as intended. It works effectively, and the whole system is proving to be an important source of revenue for the Scottish Government. The measures that we are considering today are quite narrow, and they will perhaps not affect a significant number of people, but they respond to concerns that have been raised. The point about responding to a unique set of circumstances is one that I accept.

As for what is covered by the particular provision before us, I take the point about the situation in which the conclusion of missives and the closing of the transaction happen almost simultaneously, in which case there is not a window. However, when there is a window between the conclusion of missives and the effective transaction date, if someone were to inherit a property—we should remember that LBTT does not bite on the inherited property—

come into possession of that property and purchase another property afterwards, that situation would be almost outwith their control, to some extent, so the proposed measure seeks to provide a relief that is fair and reasonable.

I recognise that the situations in which what is proposed might be of benefit might not be frequent, but for those who find themselves in such situations, it will help to provide greater certainty and fairness in the system.

**Michelle Thomson:** You make a fair point about the probability of occurrence in both scenarios. There will not be huge volumes of cases, but when the situation occurs, it could potentially have quite a big impact on one person. Therefore, I want to follow up on the convener's comment about the possibility of Revenue Scotland having some kind of discretionary power.

I think that you already concede that there continue to be some scenarios that, because of their nature, will require the introduction of further SSIs in order to be ironed out. I am still a bit unclear as to why you would not grant a discretionary power to Revenue Scotland. I know that you look for certainty in the law, which is eminently sensible, but you concede that there continue to be some anomalies as we get into the detail. Giving a discretionary power to Revenue Scotland would surely allow for the ironing out of such anomalies. If HM Revenue and Customs—which obviously has more resource; I understand that—can do that without there being continuing legal cases, why would Revenue Scotland not be able to do that?

**Tom Arthur:** My understanding is that HMRC's discretion is really just to extend the timeline. I appreciate that it is 36 months in England, but one of the things that we are doing through the order is extending the period to 36 months.

The issue of whether Revenue Scotland should have such a discretionary power is one that we can explore, but it would represent a significant change from the way in which we operate at the moment, whereby Parliament legislates and Revenue Scotland provides the guidance. It would be a significant change for Revenue Scotland, recognising that HMRC operates under a different set-up. However, the broader point is one that we can consider. A lot more detailed consideration and exploration would be required.

I come back to the point about how we have sought to address the issues that have been raised, which have led to the order coming before the committee. Having identified, through consultation and engagement, a number of specific anomalies, we are seeking to address those directly by taking a targeted approach



through the amendments for which the order provides.

**Michelle Thomson:** You make a fair point about that being a change, but it might be worth considering at some point, along with the idea of a finance bill, which we are having similar discussions about, because there are always unintended consequences with our tax. There is also the complexity of shunting Scottish taxes into a wider UK framework. Such an approach may lend itself to that, but that is probably a separate discussion.

**The Convener:** Thank you. John Mason has opted out, so the next member to ask questions will be Liz Smith.

**Liz Smith (Mid Scotland and Fife) (Con):** I was grateful to hear your comment that you are open to having further discussions about a finance bill. Have such discussions taken place within your portfolio, or have they gone further up the scale to Cabinet?

**Tom Arthur:** That is a discussion that we have had previously, in the context of looking to recommence the work of the devolved taxes group, which had to go into abeyance during the pandemic. It is something that the Government is open to discussing further.

I appreciate that I am repeating myself, but it is important that there is engagement with Parliament, if we are to move to that particular system and approach. I imagine that this committee would have to lead on that piece of work. I am conscious of that, and I am more than happy to have further discussions on the matter. I know that officials are happy to engage directly with the committee, as well, but there is a broader set of considerations to take into account in terms of feasibility.

**Liz Smith:** Thank you for that. In its submission, the Institute of Chartered Accountants of Scotland says:

“Historically we have found that generally speaking, awareness of Scottish taxes is not high in Scotland”—

I think that we know that—

“and there is a need for improvement of communications by the Scottish Government to ensure this improves, in line with the Scottish Government’s own Framework for Tax principles.”

We have heard quite a lot from Audit Scotland about the need for greater clarity and transparency on tax in general—what decisions have underpinned certain tax decisions, where the money is coming from and so on—so I think that the point that the convener and Michelle Thomson raised is a valid one. The idea of having a finance bill to improve that and to provide some extra clarity and transparency is quite appealing to this

committee. I completely take your point that scrutiny of that would have to be done by Parliament, not just by specific committees, but we would be grateful if that discussion could go a wee bit further.

**Tom Arthur:** I am more than happy to ask officials to engage directly with the committee following this meeting, and we can discuss how we can take forward that work.

**Liz Smith:** In answer to the convener, you said that you are not able to provide timescales, should further amendments be needed. Might a number of adjustments need to be made or are you reasonably content that, should the order be agreed to, it will be effective in addressing most of the concerns that we have heard about?

**Tom Arthur:** The previous conversation around the merits of a finance bill speaks to the fact that there will always be a need for care and maintenance. We have to take decisions based on the information that we have at the present time. Therefore, from that perspective, the answer is yes, but we recognise that, inevitably, other issues and concerns can emerge in the future and that we would respond to those, just as we have responded previously.

This particular tax has been the subject of quite a significant volume of legislation, both primary and secondary, and amendments since it was introduced. We will respond and will seek to do so in a way that is as open and transparent as possible through engagement. With regard to specific timelines around the issues that have been raised by the SPA, we will engage with the authority on that. As I said, I am more than happy to update the committee in due course on where those conversations lead.

**Liz Smith:** In relation to some of the concerns that have been put before the committee, will the Scottish Government have on-going discussions with the relevant groups individually about their concerns or is today the end of the matter for that discussion process, should we agree to the motion on the order?

**Tom Arthur:** I would not want to describe today’s consideration as the end of the matter. As with all aspects of tax legislation, it is a process rather than an event. A number of issues have been raised. It was always a case of finding a balance. I appreciate that there are competing demands and that not everyone can be satisfied without that impacting on others.

The broader points around transparency and how user friendly the presentation of legislation is—again, that touches on the point about an annual finance bill—are very important. We want to have a tax system that is as straightforward to use as possible. We understand the importance of

that in relation to economic growth and providing certainty. In that spirit, we are very keen to continue those conversations, whether with public bodies and other authorities or, indeed, with organisations such as ICAS, CIOT and the Law Society.

**Jamie Halcro Johnston (Highlands and Islands) (Con):** I have a quick point of clarification along the same lines as the convener's point about Police Scotland, which has talked about the lack of exemption. As you will be aware, access to housing, particularly in parts of my region of the Highlands and Islands, is very difficult, as there is a shortage of housing. There have been a lot of suggestions that public bodies should or could provide houses to ensure that they can get the staff that they need, particularly with regard to jobs around the national health service. Would NHS boards be entitled to the exemptions that Police Scotland is not entitled to or would NHS housing also not be exempt?

**Tom Arthur:** The exemptions as set out in the amended schedule, should the order be agreed to, would be specific to local authorities under the 1987 and 1988 housing acts. Laura Parker might want to comment on the situation for other public bodies.

**Laura Parker:** As part of the review and the work around Police Scotland's submission, the Scottish Government wants, and is seeking, to understand the impact on similar organisations, such as the NHS and the Scottish Fire and Rescue Service, for example, so it will be an all-encompassing review.

**Jamie Halcro Johnston:** The fire service is a national body but NHS boards are local. Are you aware of whether NHS boards would be exempt at the moment?

**Tom Arthur:** My understanding is that they would not be exempt, but I am happy to clarify that and write back to the committee. Our conversation has explored a wider range of issues around exemptions for public bodies. The question is whether, if local authorities are exempt, other public bodies should also be exempt.

We could start to go through every public body one by one, but I suggest that it would be helpful to the committee for us to take that away, to have further discussions, to engage with housing colleagues and the Minister for Housing, and to write back to the committee in order to provide a broader overview of the current landscape, provide clarity on the point that you raise and set out the work that we will be doing to develop policy in that area.

**Jamie Halcro Johnston:** That would be very helpful. The NHS boards that I speak to in my region have staff shortages, and access to

housing is a big part of that. My question is about how the issue of an exemption would fit in with encouraging or supporting them.

09:30

**The Convener:** That appears to have exhausted questions from the committee.

Ross, you are here just in time to vote.

**Ross Greer (West Scotland) (Green):** Apologies, convener. My bus valiantly attempted to ford some flooded roads this morning, but it took longer than the driver expected it to take.

**The Convener:** Agenda item 2 is formal consideration of the motion on the instrument. I invite the minister to move motion S6M-11928.

*Motion moved,*

That the Finance and Public Administration Committee recommends that the Land and Buildings Transaction Tax (Miscellaneous Amendments) (Scotland) Order 2024 [draft] be approved.—[Tom Arthur]

*Motion agreed to.*

**The Convener:** I thank the minister and Laura Parker for their evidence today. We will publish a short report to the Parliament setting out our decision on the draft order in due course.

09:31

*Meeting suspended.*

09:50

*On resuming—*

## **Agriculture and Rural Communities (Scotland) Bill: Financial Memorandum**

**The Convener:** The next agenda item is to take evidence from the Scottish Government bill team on the financial memorandum to the Agriculture and Rural Communities (Scotland) Bill. We are joined by Scottish Government officials John Kerr, deputy director of agriculture, rural policy division; Mandy Callaghan, deputy director, agriculture and land transition; Karen Morley, head of finance, agriculture and rural economy directorate; and Ewen Scott, branch head, Agriculture and Rural Communities (Scotland) Bill.

I welcome you all to the meeting. We finished our previous item a lot sooner than we had anticipated, so I apologise for rushing you in a wee bit earlier than scheduled. I invite John Kerr to make a brief opening statement.

**John Kerr (Scottish Government):** Thank you, convener—it is actually Ewen Scott, as the bill team leader, who will give the opening statement, if that is okay.

**The Convener:** That is fine.

**Ewen Scott (Scottish Government):** As bill lead, I lead a co-ordination team for the Agriculture and Rural Communities (Scotland) Bill. I have with me today a couple of the lead contributors to the financial memorandum.

I will quickly give some background to the bill. On 28 September 2023, as the committee will know, the bill was introduced to Parliament. The bill seeks the powers to deliver on the Scottish Government's vision for agriculture, "The next step in delivering our vision for Scotland as a leader in sustainable and regenerative farming", which was published in March 2022.

With regard to the bill's objectives, it seeks to be the platform for measures that focus on the Scottish Government's key outcomes: high-quality food production, climate mitigation and adaptation, nature restoration and wider rural development. Collectively, those measures seek to form a framework of support for agriculture, forestry and rural communities, and more generally.

The powers that are sought in the bill will deliver on the broad outcomes of the vision for agriculture. Powers are also sought to enable outcomes relating to forestry, food and drink and rural communities and the economy. In addition, the bill provides an opportunity to modernise the powers of the Scottish ministers in areas relating

to animal health and identification, animal welfare and plant health, and to safeguard agricultural genetic resources of plants and animals.

In order to support the delivery of the vision for agriculture, a new, four-tier support framework is proposed. The bill provides the powers to deliver that four-tier support. The primary framework does not provide the detail, as that would be restrictive and would fail to provide the flexibility to respond to change. The details of the tiered framework will, therefore, be provided in secondary legislation.

Over the past two to three years, we have been building on the outputs of the farmer-led groups and the agriculture reform implementation oversight board, or ARIOB, which has supported and informed the development of the consultation on the proposals in the bill to replace the current common agricultural policy framework for agricultural and land use support. We ran a public consultation on the bill from 29 August until 5 December, in which we received 392 valid responses, in addition to a wide range of feedback from approximately 600 attendees of nine in-person events and five online events.

As we move forward, ministers are committed to working closely with stakeholders using the established co-production approach to developing future policy. The intention is for the published four-tier support framework to continue to be developed through co-development and detailed measures with partners.

Although the bill does not provide financial details on the four-tier system, it is intended that such a system will be utilised in the future. The costings in the financial memo have been provided on that basis.

With lead input from the agriculture reform programme and finance team, the financial memo refers to the existing budget support levels that are provided for under the current common agricultural policy and its associated support structure. Forecasting has been provided for the future support framework budgets against existing CAP pillars 1 and 2 and forestry grant budget allocations, alongside other financial support provided to the sector that is also forecast from the enhancement of the bill. In addition, costings have been provided on existing Scottish administration, alongside the best available forecast transition costs to deliver a future support framework that can be made at this stage.

The memo also sets out working financial assumptions for the future support programme against its proposed four tiers, which are based on the continuation of funding at the quantum hitherto available to Scotland through European Union CAP budgets.

As the bill is a framework bill that provides future flexibility and adaptivity on how ministers may wish to provide support in the future, the forecasting of a replacement programme is undertaken at a high level at this stage. However, future budget allocations are dependent on United Kingdom Government funding commitments, which are uncertain.

We would be happy to answer any questions that the committee may have.

**The Convener:** Thank you very much for that opening statement, which was very helpful. Most of my questions will be on the financial memorandum itself, as opposed to the submissions that we have received, although I will touch on those as well. Indeed, some of the submissions have informed the questions that I will be asking.

My first question is on the future support framework. Mr Scott touched on the fact that, as set out in the memorandum, although the bill does not provide details of the four-tier system,

“it is envisioned such a tier system will be utilised in the future and costing”

is

“therefore provided on this basis.”

The memorandum then says that the

“mechanism will provide a level of continuity”.

However, at the same time, you want to have flexibility. One or two of our submissions have said that there is a contradiction in that.

**Ewen Scott:** I will bring in John Kerr to talk about the framework.

**John Kerr:** The bill seeks to provide the powers that will enable us to take a flexible approach in due course or at least for it to be framed around the ability for future ministers to make different decisions.

We have set out how we intend to use the four-tier framework within the powers of the bill, and we have also set out that we anticipate providing a similar level of support, subject—as Ewen Scott mentioned in his opening statement—to the availability of funding from the UK Government, with no cliff edges for producers.

We have got the flexibility to transition, but we also have the ability to do that over a period, to provide that continuity. Therefore, rather than there being a contradiction in those two things, it is about having the ability to be flexible over time and to introduce the framework at the right pace for the industry to be able to come with us.

**The Convener:** In paragraph 15 of the memorandum, you said:

“This mechanism will provide a platform to build momentum for private sector green finance investment by offering financial support explicitly linked to action for nature and action for climate on farms and crofts which should in turn give the land manager confidence to engage with private market investment in nature”.

However, a lot of the submissions are suggesting that the financial memorandum beds in vested interests and the status quo. The RSPB Scotland submission is the one that I have in front of me, but I have read four or five submissions that say almost the same thing. The RSPB Scotland submission says:

“the bottom 40% of recipients only receive 4.8% of the budget i.e., the larger businesses get most of the ‘income support’.”

It also states that less favoured area payments

“are not connected in any meaningful way to income and profitability”,

and that

“Farm Business Income data suggests, for example, that only 23% of LFA Cattle businesses have an income greater than zero without support payments”

whereas

“82% of general cropping farms, for example, make a profit without support.”

One could suggest that the bill basically continues with the status quo whereby LFA payments are made based on land rather than on what is happening on that land to achieve some of the objectives that the bill supposedly seeks to achieve.

**John Kerr:** It is true to say that the current system is based on area-based payments, which means that those with more land receive larger payments. The system is slightly complicated by the fact that we divide our land into three different payment regions. Arable or improved land has the highest payment rate, so cropping farms, which you mentioned, receive the highest rate per hectare, whereas the most extensively grazed parts of rough grazing in Scotland receive a much lower rate, so even quite large areas of land may receive a relatively small payment. The less favoured area support scheme works slightly independently of the three payment regions. However, it is the case that a large number of small farms therefore receive a proportionately smaller amount of payment each and in total.

10:00

The bill provides us with the powers to look at whether we should have an upper threshold on the payments received by any one business, according to whatever criteria ministers might want to set out in future, including a cap on the total amount of the payment. There is the ability to move away from the current system rather than

embed it in, and ministers have set out their wish to do that in a measured way so as to prevent cliff edges for businesses, or in general.

I do not think that there is a contradiction between those two things, and the pace at which we seek to transition is a matter for future ministerial decisions.

**The Convener:** The financial memorandum makes clear that the money that will be available for financial support to the sector will be set in tablets of stone, so we are looking at exactly the same funding level from 2023-24 to 2027-28—£741.9 million. It is clear that the financial memorandum is already out of date, because the actual funding in the current financial year, according to page 94 of the Scottish budget 2024-25, is £738.9 million. That drops to £705.7 million, which is a 4.5 per cent decrease. Does that not knock a wee bit of a hole in the financial memorandum?

On page 96 of the Scottish budget, if we look at money for woodland grants, which has been raised in the chamber on several occasions, we see that you are again looking to hold the amount of money that is being invested in that area at £77.2 million, which is the current figure for this year. However, in next year's budget, we are looking at a decline to £45.4 million, which is quite considerable.

How can we have faith in the figures for a period of five years when there are significant changes to the sums in the financial memorandum in the budget that we are about to vote on this month?

**John Kerr:** It is absolutely correct to say that the figures that were published in the financial memorandum were based on the best forecast that we could make at the time that it was submitted to the Parliament, which was in September last year, which was of course in advance of the current budget process. As you say, the budget is currently going through the Parliament, so updating the financial memo would not be the right thing to do until we see the outcome of the budget process. However, it is also true to say that ministers across Government have had to make challenging decisions, which they have stated publicly, on the budget allocation.

The forecast of the 2023-24 budget was the best basis on which to produce the financial memorandum, which is what Ewen Scott set out in his opening remarks. That was the best information available to officials at the time. The budget position has shifted since then, so there have been movements in some of the budget lines that are mentioned in the financial memo, including the forestry grant scheme that the convener mentioned. That is all the case.

Nevertheless, the intention is for the Scottish Government to continue to support the sector with the funds available, which, until the end of the UK parliamentary session, are to be retained at much the quantum that they are at present. Thereafter, we do not know, because that will be subject to Treasury decisions beyond the next UK election.

**The Convener:** That is a matter of real concern. In paragraph 23—this has been touched on by Mr Scott—you say:

“EU Exit means Scotland no longer has long-term certainty of funding. HM Treasury have provided yearly allocations for the current UK Parliamentary term, however, there is no funding commitment from 2025.”

You also say:

“Agriculture requires future funding certainty”.

Given that there has been no commitment beyond 2025—this parliamentary session—where are we in providing certainty through the financial memorandum and the bill for Scotland's agricultural sector? There has already been a knock to the funding for the next financial year. What is the likelihood that that will be exacerbated? I know that you have not got a crystal ball, but what are your concerns about that? What are the likely parameters should we not see a commitment beyond 2025?

**John Kerr:** It is important to say at the outset that we should remember that the purpose of the bill is to provide Scottish ministers and the Scottish Government with the appropriate powers to support the sector and achieve the objectives that are set out in it.

However, it does not set the budget. The budget is set through the budget-setting process, which principally requires us to reach a settlement whereby all the UK Administrations receive an appropriate level of funding to support the agriculture and land-based sector. The Bew review explicitly recommended that there be a revised settlement across the four Administrations to take account of what the policy is currently trying to deliver across all the Administrations in the UK, not just in Scotland. To date, we have not had any meaningful discussion with the Treasury or the other Administrations, although we continue to seek those discussions with our counterparts in the other three countries. Indeed, some of our colleagues in the other Administrations are doing likewise with the Treasury. Nevertheless, we are where we are, and we can only continue to press as we are doing.

**The Convener:** NFU Scotland seems to be fairly happy with the financial memorandum, but other organisations, such as the Landworkers Alliance, are unhappy. The Landworkers Alliance stated that the continuation of area-based direct payments constitutes

“an unacceptable use of public funds”.

As I talked about earlier, such payments represent a maintenance of the status quo and, one could argue, vested interests. What discussions is the Scottish Government having with organisations, some of which feel that they were not actively consulted by the Scottish Government, on how we can deliver the best possible outcome in Scotland’s agriculture and rural communities in respect of the Scottish Government’s objectives?

**John Kerr:** As Ewen Scott set out earlier, we undertook a Scottish Government consultation and we also sought the help of Nourish Scotland to do a round of more community-focused consultation discussions. That was a public offering, and people participated. We had good participation across the consultations.

We also met individual stakeholder bodies, including the Landworkers Alliance, which you have mentioned, and which held a rally outside the Scottish Parliament building. We met representatives of the organisation at that time separately to hear their concerns. They would like to see more support for small producers and small enterprises, which can often supply significant quantities of food from small areas. That forms the basis of the Landworkers Alliance’s critique of an area-based system. We recognise that, and we are running a small producers pilot scheme to assess how we can better assist those producers and smaller businesses, which would include those in the crofting counties who use polytunnels and that sort of thing.

Support is available to small producers. A producer does not have to be large to access the support that is currently available from the Scottish Government, but we recognise that we could do more and we are currently piloting that approach. The powers in the bill would provide for more of that type of support to be rolled out in future, should ministers so choose.

**The Convener:** RSPB Scotland has around 80,000 hectares of land, much of which has agriculture activities on it. It has said that, historically, the CAP performed poorly

“in terms of directing spend appropriately and offering best value for public money”.

It has said that, if we take the bill forward, we should look at cost benefits, that there have not been any alternative approaches, and that it has

“seen nothing from Scottish Government that suggests such cost-benefit analysis of a range of reform options has ever been undertaken.”

As I have mentioned a couple of times, it looks like a steady-as-she-goes financial memorandum, rather than an opportunity to make significant

changes and to look at where we get the best value for money. What work is being undertaken to ensure that we get the best bang for our agricultural buck, given the commitments that we need to fulfil in the years ahead, not least with regard to the climate?

**John Kerr:** In parallel with the bill process, we have set out the four-tier structure that we propose to implement through the powers in the bill and the secondary legislation that will follow. We will continue with a base payment system that is similar to what we have at the moment, with some of the basic payment scheme budget attached to it, but we also intend to introduce a second-tier structure to which everyone will have access—every farmer and crofter should have access to that money if they wish to undertake the measures that are set out in the second tier. We anticipate that the lion’s share of the work on climate and nature outcomes will be done through the second tier, while we continue to support food producers who are managing the land to get those additional outcomes.

That is new, and it will be different from what we have at present. The second tier will be broad and will be different from our current agri-environment support, which is more targeted and has a limited budget. The second tier of our framework is where we anticipate the benefits being realised. We are currently going through the development work on that, and very much at the heart of that is establishing which interventions will deliver the most value in reducing emissions and promoting on-farm nature recovery and restoration. That work is on-going. The third element will be to have the right monitoring and evaluation sitting behind that so that we can check as we go that we are getting the right bang for our buck, as you put it.

**The Convener:** What do you say to the comment that

“We do not see the logic of area-based ... payments—payments which do little more than reward land ownership and inflate land values”?

**John Kerr:** A valid criticism of the area-based support system is that it does not closely link to agricultural output. However, an output-based subsidy would be a World Trade Organization amber-box measure, so we have stepped away from that. The European Union absolutely wanted to decouple the link with productivity to prevent perverse incentives of overstocking and overproduction, which is why the position has evolved to the one that we have today.

However, if we want to deliver more benefit, we need to take account of the fact that some benefits scale with the size of the land that the benefits are delivered across. For example, if we want to restore riparian woodland, a large estate will have potential to deliver greater value to the public. It

therefore makes sense that some of our support should be linked to the area that the interventions are delivered across, because they scale with it. Similarly, if we want to reduce emissions from the beef herd, the largest producers potentially have the most to contribute in terms of emissions reduction. Therefore, we want to keep some link with scale, because we want to deliver some of those public benefits at scale, too.

**The Convener:** One issue that has come up is the cost of administration. Paragraph 47 of the financial memorandum says:

“The 2023-24 budgeted costs to administer payment, compliance and supporting services are £61m. This represents approximately 11% of the £692m budget for all current schemes.”

My arithmetic says that £61 million would be under 9 per cent of that, so I think that there is a wee error there. However, more importantly, the memorandum goes on to state:

“Future administrative costs under the proposed Future framework support are currently unclear and will depend on the chosen delivery model.”

That figure of £61 million is a lot of money for administration. What would it be spent on specifically and why are the future costs “unclear”?

**Mandy Callaghan (Scottish Government):** The £61 million is the combined figure for the paying agency—the rural payments and inspections division staff, who administer the process and support farmers to go through it—and the whole information technology system that sits behind that.

10:15

The current structures are very settled. Part of the work to support the transition away from where we are at the moment and towards fulfilling the framework and delivering a more flexible process that can respond to the future is to develop a business case that sets out the options for operational delivery.

The £61 million has been built up over a number of years. Different schemes were added at different times and they all have to be administered—as was done through the EU. We are now looking at the options for operational delivery that might be more streamlined and simpler to administer. We have not gone through all the options yet, but that is part of the work that we are doing to develop the business case for how operational delivery will work under the new framework, following this bill.

**The Convener:** If so much is unclear and is still being worked on, how did you come to the figure of £61 million?

**Mandy Callaghan:** Those are the current administration costs, including for information technology because there are a number of IT support systems. We have staffing costs across RPID and there are regional offices. That is the total cost at the moment.

**The Convener:** I appreciate that, but this seems to be a case of “steady as she goes”. Is there no thought about how those administration costs could be reduced so that more money could be invested directly in agriculture itself or in innovation for climate change reduction? It seems to me that there is an excellent opportunity to make changes to reduce bureaucracy and to improve efficiency and delivery. I am a bit disappointed that we are just keeping the money the same and that there seems to be no ambition to reduce that by even 5, 10, 15 or 20 per cent. The overall budget for the next financial year has a 4.5 per cent reduction, but there seems to be no consideration here of a reduction in admin costs.

**Mandy Callaghan:** There is work to do exactly that with the current budget: we are building the plane while flying it. Efficiencies are being made within those processes now, but we do not yet have the structure of the future administration. The intention is for that to be more efficient than it is at the moment.

**The Convener:** When will we have that? It feels like groundhog day for the committee. We keep getting financial memorandums and framework bills—I apologise for the generalised moan, and I know that this is the only one that is your responsibility—and we keep having to ask questions about future resources, how things will be funded and what the secondary legislation will look like. When will we reach a position where administrative issues are no longer, to quote your own financial memorandum, “unclear”?

**Mandy Callaghan:** We are working through the business case at the moment.

**The Convener:** We have been doing that for the past 90 minutes. How long is a piece of string? Has a date been set for when that will be resolved or will it meander on for weeks, months or even years?

**John Kerr:** It is important to recognise that future delivery costs will depend on the types of support that ministers choose to take forward. We have to wrestle with the fact that the more we want to accommodate each type of agriculture, the more detailed and complex the policy, and then the delivery, have to be.

That complexity attracts cost, so there will be a point when ministers have to decide both how much complexity they want in order to accommodate different types of business and where they want to stop doing that, in order to

make the delivery costs reasonable in relation to the total public benefit for each change.

We are working through that process. We have committed to working with the sector to establish what is possible in getting the right measures in all the tiers. Then we will have to take a view on the delivery implications and come to an agreement on what the final, settled policy will be.

That process is still on-going, and it will continue as we work through the transition. We envisage that that will take, as our published route map sets out, until 2027 and beyond, so the answers to some of those questions will not be known for some time to come.

**The Convener:** So it is a kind of permanent revolution.

**John Kerr:** It is a permanent state of improvement—from my perspective, that is perhaps a better way to put it.

**The Convener:** Indeed. It is just that the word “revolution” evokes chaos and stuff like that, which I am a bit concerned about. I always think that it is a lot easier to reach a goal and complete a task if you have a deadline. If you do not, it is much harder, because there is never any date by which delivery has to happen.

I will allow other members to come in with questions. The first will be Jamie Halcro Johnston, to be followed by Ross Greer.

**Jamie Halcro Johnston:** I remind the committee of my entry in the register of members’ interests as a partner in a farming business and a member of the Royal Highland and Agricultural Society of Scotland, Scottish Land & Estates and NFU Scotland.

With regard to the convener’s point, framework bills are—as he has said—frustrating for us all. There is a lot of talk about co-design and about things changing, but such an approach makes it extremely difficult to know exactly how we should scrutinise the bill.

Perhaps the panel can clarify something for me. The current plans are for a four-tier system. Some of those tiers will, I imagine, be more costly to administer; for example, tier 2 might require more monitoring and evaluation than tier 1. When do you think that you will get an idea of the structure, and of the emphasis that will be put on each tier?

**John Kerr:** In the route map, we set out that we intend to introduce the first iteration of the tier 2 support in 2026. We should be—and we are—working towards getting the shape of that ready so we can talk to farmers about it in the coming, say, six, eight or 12 months.

There is quite a lot of work to be done there, hence my slight hesitancy; however, our current

plan is to have that in place by 2026, with guidance available to farmers in advance. At that point, we should have a good sense of what the delivery costs are for that tier.

**Jamie Halcro Johnston:** Is tier 2 the one tier that will possibly have the most variable costs associated with it?

**John Kerr:** Not necessarily. It is the piece of our policy that, depending on how we implement it, will be the newest and most different from where we are at present. By contrast, we currently have for each of the other tiers a reasonably well-established approach that will be relatively similar—albeit that, as we hope and as Mandy Callaghan has said, there will be room to simplify and reduce some of the administrative burden in that regard, both for us as the paying agency and for farmers. The second tier is the one where we see the greatest uncertainty, but right at this moment we are trying to narrow that down to something that is much more controlled and known.

**Jamie Halcro Johnston:** Last week, at the Rural Affairs and Islands Committee, Professor Thomson, of Scotland’s Rural College, said that a

“rural support plan needs to be front and centre”,

while Douglas Bell, of the Scottish Tenant Farmers Association, in referring to a rural support plan, said:

“The earlier that can come, the better. There is a real frustration among agricultural stakeholders just now about working in a vacuum.”—[*Official Report, Rural Affairs and Islands Committee*, 31 January 2024; c 11, 12.]

The UK Government was able to provide clarity on its vision for agriculture back in 2020, in the bill that became the UK Agriculture Act 2020. We are left with a framework bill and an approach that the Delegated Powers and Law Reform Committee has said “poses difficulties for scrutiny”.

Would you agree with that? Why have we not been able to get a clearer vision already, if we are not going to be getting anything else until 2025?

**John Kerr:** It is right that the rural support plan will be an important document to enable the industry to plan. However, we have set out the objectives really clearly in the Scottish Government’s vision for agriculture, and those objectives are also set out in the text of the bill—

**Jamie Halcro Johnston:** But the objectives are not the plan.

**John Kerr:** No.

**Jamie Halcro Johnston:** As a committee that has to look at the cost implications, we are looking at aims and objectives rather than actual plans.



**John Kerr:** That is right, but—and I think that this is important—we have also set out the vision for a four-tier structure of payments, and the timeline on which we expect to implement them.

As I said earlier, it is difficult for us, as officials, to plan for future budgets that are uncertain. The industry would like to have that certainty for budget planning purposes, and the Scottish Government agrees and continues to press for that clarity.

It is important to remember where agriculture has come from. Under the European Union, there was a seven-year programme, in which the funding envelope lasted over the period and there was flexibility in using the money. Anything that was not paid out early in the process could be paid out later. That type of support has gone from UK agriculture.

We share some of the industry's frustrations with regard to that planning element, but we have been as clear as we can be, while still committing to the spirit of co-development with the industry, about what the individual measures within each tier should be. We are balancing those two pressures.

**Jamie Halcro Johnston:** I take that on board, but the actual agriculture rural support plan will arrive five years later than when the UK Government delivered it. It is important for knowing what the costs are.

**John Kerr:** We have been really clear with the industry about where we currently are, where we are going to be shortly and our long-term vision. I would dispute that we are in anything other than as good a place as farmers south of the border.

**Jamie Halcro Johnston:** I have a final point on this area. The Delegated Powers and Law Reform Committee has asked that you consider publishing a rural support plan before stage 3.

**John Kerr:** Colleagues are working very hard on various aspects of that, so I am reluctant to tie our hands in that respect. In any case, it will be for ministers to decide when we bring that forward. The vision for agriculture, combined with our route map, is nine tenths of our plan. Some of the extra elements that will go into that are in development right now.

**Jamie Halcro Johnston:** For the sake of clarity, then, you are not ruling that out, but you think that it is unlikely.

**John Kerr:** It is not really for me to say. It would be for ministers to commit to that.

**Jamie Halcro Johnston:** I just want to get a bit of an idea about some other areas. Within the current system and the framework bill, what will happen to any underspend on a yearly basis? Will

it have to remain within the sector, or can it go in and out of the budget, as it does now?

**John Kerr:** As I said a moment ago, the European Union CAP had a specific mechanism that enabled us to draw down money flexibly, particularly across the pillar 2 part of the former EU programme, and that has gone. I defer to Karen Morley, who might have something to say about the financial arrangements.

**Karen Morley (Scottish Government):** It is true that the Scottish Government has taken underspends from the budgets in-year to meet other pressures. The commitment to returning that funding to the sector in future has been made purely by Scottish Government ministers; it is not linked to anything to do with Westminster funding and it recognises the difficult position that the Scottish Government has had to manage. As all of that has been discussed in the public domain through parliamentary questions, I am not going to go any further into it.

However, the fact is that, as long as we have single-year budgets, we should expect to live within each annual settlement, and deferring funding into a future year should be done from the perspective of a planned future commitment rather than an emerging underspend that creates a liability in the next year. Unfortunately, those are just the constraints with annual budgets that we are working under.

I do not know whether there is any appetite or opportunity for ministers to change the Scottish budget to give multiyear funding, but we plan across multiyears for administrative purposes, although our delivery is bound by the constraints of our annual budget setting.

**Jamie Halcro Johnston:** I appreciate that, but at the moment, money can come out of the budget or it can be withheld and used elsewhere. Taking my politician's hat off and putting my farmer's hat on, I would say that promises from politicians are not always worth a huge amount. We always look at the additional cost of legislation, and depending on how decisions are taken as part of the filling out of the framework, there could be areas in which any underspend could still be utilised outwith the agriculture budget.

10:30

**Karen Morley:** Yes, that has been a ministerial priority, as we have seen this year. As part of the Administration, we are duty-bound not to sit on pots of money that we cannot spend when other parts of the Administration are struggling, and we have to be fair to our colleagues in that respect, too. However, we plan to deliver within the remit of what our ministers ask us to deliver as best we can.

**Jamie Halcro Johnston:** I want to briefly cover two other areas, the first of which is EU alignment. The new EU plan—which, as you have said, will last seven years—is going to see its budgets cut; indeed, there are protests happening across Europe about that. Obviously, it is an opportunity to look for a new plan for Scotland. I take it that our own EU alignment is not going to go as far as that.

**John Kerr:** In seeking the powers that we have set out in order to align with the outcomes that the European policy also wants to reach, we have been clear about wanting to maintain food production, about wanting to deliver on environmental goals and about wanting to continue to support thriving rural communities. That is broadly in line with what the European Union wants to do.

You mentioned the protests in different European countries, of which France is currently the most obvious. The picture there is complex, but principally its farmers are protesting about the lack of market return for the type of farming that European citizens want their farmers to undertake. The protests there are partly policy driven and partly market-standards driven; they are not only about the support payments, which is what the bill talks about, but about some of the conditions with regard to environmental performance that are attached to the change. As farmers in Europe see it, they are doing all of the hard work, and then consumers go to the supermarket and buy something from a country that is not doing the same.

**Jamie Halcro Johnston:** Lastly, and again on EU alignment, I understand that the new CAP scheme requires reserves to be kept for crises. Would that be built into the legislation, or is it envisaged that it will be put into the legislation once the framework is fleshed out? If so, how would that reserve be built up?

**John Kerr:** The crisis reserve is much more meaningful when there are 28 member states, because contributions from each state can amount to a reasonably large reserve. After all, smaller countries have much less ability to deal with a crisis that takes place in perhaps one small territory of the 28 member states. We have considered whether we can meaningfully put together a crisis reserve that would help.

**Jamie Halcro Johnston:** Is it not being considered at the moment?

**John Kerr:** We have considered it. I will need to check this, but I think that it is in the bill.

**Ewen Scott:** Powers proposed in the bill would enable us to utilise funds in that manner.

**Jamie Halcro Johnston:** How would that reserve be funded, and how much do you envisage it being?

**Ewen Scott:** The bill is silent on that, but there is flexibility. It would be for ministers to decide.

**Jamie Halcro Johnston:** So, money could be taken out of the agricultural body to hold in reserves. Would those reserves be for agricultural use only, or could they be utilised outwith that budget line?

**Ewen Scott:** As I have said, the bill has not been drawn on that basis. That is a decision for ministers to make in due course.

**Jamie Halcro Johnston:** Right, but you can appreciate why I asked the question. We are being asked to make a decision on the bill's financial memorandum and there is a lot of uncertainty about how the money, which we all appreciate is limited, is going to be used.

**John Kerr:** The reason that I prefaced my answer with the crisis reserve situation in Europe is because it is important that the context is right. As you have pointed out, we have a reasonably modest Scotland-sized budget to support. If we have a significant crisis, finding the money from the budget to deal with it is going to mean taking it from other recipients, and it is not the intention for us to have to do that. That said, any crisis that we face will be treated on its merits at the time. It will be a decision for ministers.

An important point is that we have taken the powers enabling ministers to support the sector in times of crisis, as we did this year in order to repair flood banks. We have ensured that there are powers to allow ministers to provide that support. Finding the money is a slightly separate issue, albeit that it is the one that you are focused on here—and rightly so.

**Jamie Halcro Johnston:** It is quite an important issue, though.

**John Kerr:** It is, yes.

**Ross Greer:** I would like to get a bit of clarity on some of what the convener touched on in his original line of questioning on the balance of funding allocation between tier 1 and tier 2 and above. From the evidence that was submitted to the committee and the consultation responses, it is fair to say that a number of organisations have made an assumption about that allocation and have objected to it, while others have stated that they felt it to be ambiguous.

For clarity, I will paraphrase what the financial memorandum says—I think in paragraph 21. It states that, in broad terms, the Government intends to maintain underpinning support through base payments, under tier 1, and universally

accessible support for land managers undertaking climate and nature actions through the enhanced mechanism, under tier 2, and to do so at similar levels to current direct support. The organisations that have submitted evidence to us have read that in two different ways. Some have read it as meaning that the individual payments will be roughly similar to the current level of payment, with new conditions, potential capping and so on. Others have taken it to mean that the overall balance of budget allocation between the amount of money given to tier 1 and the amount given to tier 2 and above will stay roughly as it is at the moment.

Could you clarify which of those readings is correct?

**John Kerr:** I cannot do that, because that is subject to future decisions of ministers. It will be for ministers to decide the split of the budget between the four tiers in due course, and we hope to set that out clearly for businesses in the run-up to the implementation of the 2026 iteration of the scheme, at which point we hope to bring in tier 2.

As we set out in the bill consultation, we anticipated that the levels of support under tiers 1 and 2—the support that reaches everybody who wants to participate—would be broadly similar to what we currently have in the income support part of our current policy, at least at the early part of the transition. Ministers have committed to having no cliff edges and, in order to meet that commitment, we would not want to drastically reduce anybody's access to the payments that they currently receive, although that might change over time.

We have been clear that we expect businesses to do more for that money because the tier 2 element requires more specific outcomes for nature and climate from those who are producing our food.

As we have set out, we broadly anticipate that, at the start of the process, with the income support element of the budget, tiers 1 and 2 will be similar to what is in place now: basic payment scheme—BPS—greening and possibly the LFASS payment.

**Ross Greer:** That was useful—thank you. You have pointed out that tier 2 has more conditionality around climate, nature restoration and so on. Correct me if I am wrong but, at the moment, the vast majority of funding goes through tier 1, which is largely unconditioned. The tension that has come out in a lot of the evidence that has been submitted to us lies in how to square the circle between the ministerial commitment on no cliff edge, which you have mentioned, and other ministerial commitments for a transformation in agriculture, which is in the vision statement, the statutory targets for climate and emissions

reduction and the statutory targets that we will soon have on nature. It is hard for me to square what is in the financial memorandum and the bill with other commitments that ministers have made and other legislative commitments that are already in place. There will not be a significant shift in funding in the short to medium term. Therefore, what is proposed in the bill will not result in a shift towards lower emissions, more restoration of nature and so on, to which the Government has already committed and which the Parliament has already put in law.

**John Kerr:** There a couple of points to pick up there. First, basic payments are conditioned. At the moment, in order to receive a basic payment, or to get any form of income support, farmers have to comply with good agricultural and environmental conditions and the GAEC rules, and they have to abide by statutory management requirements. Those are meaningful things that prevent harms from happening in the environment, and they underpin the conditions.

**Ross Greer:** I am sorry to cut across you, but you must acknowledge that they do not improve the situation. At the moment, Scotland is a massively ecologically degraded country with a significant net contribution to global climate change. We recognise that something needs to change, so it is not good enough to say that, at the moment, the basic payments are conditioned on not making things much worse. We have all agreed—the Parliament, the Government and the sector—that the status quo is not good enough. The conditions for the basic payments really do not fly, do they?

**John Kerr:** I think that it is fair to say that the farmers who talked to us recognise those conditions as being meaningful, but your point about needing to make improvements is right. That is why we have tier 2 of our proposed framework, which will deliver more of the environmental benefits that are needed. You are right that the farming sector recognises that those benefits are needed and wants to contribute to that improvement. That is where the budget will make more difference than the current income support budget does.

At the moment, we have a greening policy that largely impacts on arable and improved land, but it does not reach all of the grazed land—the rougher grazing. Therefore, there is room for us to bring in more conditions in tier 2 for all farmers, but in particular for those who are not caught by our current greening policy. We see that improvement being driven by that part of the policy.

**Ross Greer:** At the moment, there is no intention for tier 2 to become a larger share of the overall budget. As you have laid it out for the purposes of this conversation, tier 1 prevents

things from getting worse. There are conditions in tier 1 to prevent further environmental degradation, but it is not about improvement as such. Tier 2 is about improvement, but what we have in front of us does not give any indication that tier 2 will become a larger share of the overall budget.

**John Kerr:** For the sake of argument, if we put the greening conditions into what is currently income support in tier 1 and then introduce a new tier—tier 2—and take some of the current income support budget and put it into that tier 2, that will take some of the budget that only has the current conditions and put it into that entirely new platform, which will then drive the changes. That is what our policy is predicated on. It essentially takes the existing money and gets it to do more than it is currently doing.

**Ross Greer:** That is useful. However, going back to what the convener said, you can see the challenge for us, given that those decisions will all be made at a much later date; they are not what we are looking at now. We are being asked to scrutinise what is in front of us, but the challenge is that what is in front of me does not give me any confidence—because it leaves a blank space in that area—that the current bill and the Government’s financial assumptions around it will contribute towards the statutory climate targets that we already have, never mind the nature targets that we are likely to put into statute, the Government’s policy objectives and so on.

How have you gone about engaging with the Government team that is leading on the development of the climate plan, for example, to make sure that the bill is pointing in the same direction as the statutory climate targets in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the plan that is being produced for later this year?

**John Kerr:** I am glad that you asked the question that way. In my division, we have a group of staff whose function is to ensure that the agriculture policy is aligned to the climate change plan. Indeed, the work that will go into the future climate change plan for the agriculture sector is being worked up by my team, and that team is working with the agricultural reform programme to ensure that we have an implementable mechanism to take that forward in the support structure.

Some of those new conditions will come forward in advance of the bill powers in 2025. We will use existing powers to bring forward new conditions that specifically help to tackle the climate crisis. We anticipate bringing forward new conditions for the suckler beef support scheme to reduce emissions from that sector, and some underpinning elements across all of agriculture to

help to get businesses ready to baseline their activities. Many of them are already doing that, but we intend to bring that in as a condition for everyone, in order to tackle exactly the challenges that you are raising, both on nature and on climate.

**Ross Greer:** That is useful. Finally, have you had such a conversation with all the organisations? I am sure that you have engaged with them throughout the bill process, but bodies such as RSPB Scotland, Nourish Scotland and the Landworkers Alliance have all given the committee incredibly similar submissions on exactly that point. Have you already started engaging them in discussion to explain your approach? In some cases, it sounds as though all that is needed is clarification; in others, there is disagreement over policy intention, which is fine. Have you engaged with them to clarify those points?

10:45

**John Kerr:** Yes. The agricultural reform implementation oversight board—ARIOB—contains voices from Nourish Scotland, RSPB Scotland and the farming industry across the different sectors, including crofters, large livestock farmers and arable farmers. The board has a good balance, and we engage individually with those organisations at official and ministerial levels. We have been taking advice and input from across the whole sector.

**Ross Greer:** Thank you very much. That was really useful.

**John Mason (Glasgow Shettleston) (SNP):** I return to the convener’s line of questioning on administration costs. Paragraph 47 of the financial memorandum mentions a figure of £61 million. I was a little unclear about its other mention of 11 per cent. What was that £61 million 11 per cent of?

**John Kerr:** The financial memorandum says:

“The 2023-24 budgeted costs to administer payment, compliance and supporting services ... represents approximately”—

ah; okay. That £61 million is 11 per cent of the total budget for the schemes that are supported by that administration. Sorry—I will say that again in a coherent way. We pay out money to farmers through our support schemes. In doing so, we incur administration costs. The money that we pay out is £692 million, and the administration costs of doing so are £61 million.

**John Mason:** That would be less than 10 per cent.

**The Convener:** It is less than 9 per cent.

**John Kerr:** There you go. It was not my arithmetic that went into the draft.

**The Convener:** So it is not right. It is a bit off to have a financial memorandum with such an obvious error, I would have thought.

**John Mason:** I just wondered whether it was referring to a different figure, or whether I was misreading it.

**Mandy Callaghan:** No, I think that it is a mistake.

**John Mason:** Okay—I will leave that with you. It would be good if the figure were less than 10 per cent, I suppose.

**John Kerr:** We will check that.

**John Mason:** My next question was going to be whether 11 per cent was a reasonable figure. Do you benchmark that percentage against costs in other countries? I do not know what Denmark or anywhere else spends, for example. However, at last week's meeting of the Social Justice and Social Security Committee, we heard that Social Security Scotland is aiming for a figure of 5.2 per cent for its costs to distribute benefits, which is also quite a complex area.

**John Kerr:** I beg your pardon. Which body did you say it was?

**John Mason:** It was Social Security Scotland, which is aiming for 5.2 per cent. I therefore wonder whether the figure of 11 per cent is okay, or good. How do we judge that?

**John Kerr:** First, I apologise that the figures in the memorandum do not appear to be correct. However, in defence of my colleagues who prepared the document, the amount that we pay out depends on which part of the costs is being measured—for example, whether we include forestry grants and various other pieces at the margins. The agricultural policy is quite broad in that sense.

On benchmarking, as I said earlier, the amount that it will cost to pay out will depend on the complexity of the policy and on ministers' appetite to accommodate more factors in it. It is therefore unfair to compare this area with social security, which has a larger volume and is less bespoke.

Mandy Callaghan wants to come in, so I will stop there.

**Mandy Callaghan:** There are also core costs, irrespective of how much grant there might be. Even if the budget were to change significantly, there would still be core costs for staff and IT that would not change. There is a per-transaction value based on which we judge whether a cost represents good value for money. That spectrum of potential budget is an important part of

examining the business case and seeing whether a potential structure for administration of the future framework would be more efficient or represent better value for money. We have specialists who look at the figures and at various scenarios, depending on what could happen.

**John Mason:** There would still be a core cost even if you paid out no grants.

**Mandy Callaghan:** Yes. I guess that, if you were at the point of paying out no grants, you would not bother maintaining that core cost. However, if the budget was to reduce to a quarter of what it was, the percentage of the total cost would go up a lot because there are set costs, no matter what the grant is.

**John Mason:** I am sorry—that was a little unfair of me. I think that you are saying that that will be one of the factors that you consider when you look at how we might go forward. If one particular scheme could be run easily compared to another scheme that would be complex to run, you would take into account the cost of administration.

**Mandy Callaghan:** Yes, and the benefits versus costs. We need to look at what a scheme gives, not just in financial value but the value against meeting the targets on climate change and biodiversity, for instance. When you make decisions about the complexity of something, you need to know that that complexity is worth the cost because, every time complexity is added, cost is added. Those considerations are all part of the decisions that ministers will have to make on individual elements as we go forward.

**John Mason:** Paragraph 56 of the financial memorandum talks about the transition costs, which are to be £64 million. I assume that that is a one-off cost and will happen over a period but not be repeated. The following paragraph goes on to say that implementation costs are not included. It says:

“These costs are currently excluded”.

Will you explain to me the difference between transition costs and implementation costs and why the implementation costs are excluded?

**Mandy Callaghan:** The transition costs are not precise at the moment. They are estimated costs because we are still working through what the structure could be, what is value for money, what systems we need and what can be repurposed from existing systems.

Because we are building the plane while flying it, the implementation costs are not a simple equation. If we were doing it from scratch, we would know how much a system would cost. However, the implementation cost is the difference between what we currently pay and what we might pay in the future. We might find that

implementation costs go down as well as up. At the moment, we are still working through how implementation would be operationalised.

There will be some costs associated with the transition, such as additional staff and programme costs. We are looking at IT and those kinds of things as well, so that is an estimate.

**John Mason:** Is there no estimate for implementation costs?

**Mandy Callaghan:** As I said, it is because we do not know that there will be increased costs associated with implementation. At the moment, the programme is about the transformation from where we are to where we need to be. After we achieve that, it will be subsumed back into business as usual. I cannot commit to the cost, because there are too many don't-knows but, in an ideal world, on-going implementation and delivery could cost less or more because we have made something more streamlined, depending on what choices are made. That is why that cost has been excluded.

**John Mason:** So, although the financial memorandum says that the implementation cost has been excluded, in effect, it assumes that the present costs will carry on roughly as they are. Is that fair?

**Mandy Callaghan:** Yes. Value for money is at the heart of what we consider in that benefit and cost analysis. In an ideal world, we would not look to increase the administration costs from their current level in the longer term.

**John Mason:** You mentioned IT. In paragraph 62, you refer back to last time that there was "significant IT modernisation and business change",

when the cost was £178 million. In fact, it says that that programme

"did not deliver all the aims and benefits originally envisaged".

Where are we with IT?

**Mandy Callaghan:** The current set-up is a complex one with multiple systems. As we look into what our target operating model for the end point would be, we intend to streamline and simplify what we have at the moment. Some of those systems have been built up over a number of years and added to over time, so it is quite a complex picture. The bill and the transformation provide an opportunity to streamline and improve the situation that we are in at the moment.

**John Mason:** Might that include more IT investment?

**Mandy Callaghan:** Again, that is subject to the decisions that need to be taken about what is, and is not, value for money. The option of additional or

changed IT will be part of the business case, but we are also looking at repurposing what is currently there. I am certainly not the IT lead in that space, and it is quite technical and complex, but streamlining and improvements will be needed to make the system. For example, being able to take advantage of new technologies and be more flexible as science improves are part of an overall target operating model of processes and systems that can respond to those kinds of things. A lot of that needs transformation.

**John Mason:** I am assuming that the IT systems could probably cope with it if you tweak the present system but that, if you do something radically different, we might need a new system.

**Mandy Callaghan:** Assessments of the extent to which the current system can be used and to what extent new things may need to be bought are being done each time that we look at the different things. That is all part of the business case and a cost benefit analysis.

**John Kerr:** I will add a little bit more. It would be fair to say—and I think that our IT colleagues would want it said—that any system with any longevity to it requires on-going investment to keep it current. Any of us who are involved in supporting sectors need to ensure that our systems are kept current. On-going investment in IT will always accrue at least some cost and have financial implications.

**Mandy Callaghan:** Yes. I think that that would probably be true with or without the policy changes. Even if we had not left the EU and this was not a thing, that would still be true.

**John Mason:** Is that IT refresh or whatever in your budget for the coming year?

**Mandy Callaghan:** Yes.

**John Mason:** Mr Halcro Johnston referred to the crisis reserve. Is that the same as the national reserve that is referred to?

**John Kerr:** No. The national reserve deals with the way that we manage entitlements. It is quite a complex area, so I hope that you do not have follow-up questions on that.

The national reserve allows us to take in and then issue entitlements for a payment. We want to be able to continue to use the national reserve to bring in new entrants.

**John Mason:** I do not think that the national reserve is referred to in the policy or financial memorandum, although it was in the consultation.

**John Kerr:** In that sense, it has to do with whether you have an entitlement to access money rather than money itself. However, I am straying into territory that is quite technical and I am not very sure of my feet.

**John Mason:** Okay. I will leave it at that. If you want to write to us, you can do so. I am an outsider to this, so I was simply intrigued.

My final point is on the question of costs for other organisations. Scotland's Rural College suggested that farms would have to produce whole-farm plans and that there would be a cost to that. Would you accept that?

**John Kerr:** Businesses have to make plans if they are to be successful, and we want to support farmers to do that. In particular, we envisage that the whole-farm plan should give farmers baselining tools.

Do we think that a cost will be incurred in that? Yes. Any activity that a business undertakes will incur at least the opportunity cost of its time. We recognise that costs will be associated with the whole-farm plan, but we hope and envisage that they will be more than outweighed by the support that is available for doing it.

We will say more about that when we bring forward the whole-farm plan proposals, which we hope to do very soon.

**Michelle Thomson:** To go back to a comment that was alluded to by the convener earlier, our specific challenge in this committee is to take a view on the financial memorandum as presented. The questioning thus far has brought out a significant number of areas where there is uncertainty on costs, and we have covered a lot of them. We know that standing orders set some rules around the production of financial memorandums including on the best estimates, costs and savings and so on, and also on indicating the margins of uncertainty and a range of costs. Therefore, when I looked at the FM, given all the things that have been brought out thus far, such as the lack of consideration for future inflation and certain areas being missing, I was surprised to see that all the costs appear to be fixed costs. What was the rationale for not including ranges that would give an indication of certainty or otherwise?

11:00

**John Kerr:** The principal area of uncertainty is the budget that will be available to us after the UK general election. The risk associated with that is really large compared to the other risks, so the degree to which we can then ascribe uncertainty to the other factors pales—not into insignificance, perhaps, but it would detract from the value of giving an uncertainty range in terms of the other elements. Therefore, we adopted an approach whereby we would give the best estimate and then make clear the caveats around that in relation to our on-going engagement with the sector about how best to provide support, which may result in

varying delivery costs, for example, as we have already discussed.

There is quite a lot of uncertainty about that, and quantifying that uncertainty is really difficult. We felt that it would be unwise to provide spurious accuracy around that, when there is quite a lot of unknown. However, we are committing to delivering the current quantum of the budget—which is all that we can predict—and to maintaining our delivery costs close to the current level. We have sought to provide an early estimate of the transition costs, and we are working to make that more accurate as we work through the business case process for change.

**Michelle Thomson:** You have highlighted that it is uncertainty cubed, because of the points that you have made. What consideration did you give to other mechanisms? I sense that you are going through the process, which says that you must present an FM in terms of the standing orders of the Parliament, in the face of considerable uncertainty. Did you consider other approaches? I fully accept that there are significant challenges around the cliff edge of UK Government funding, so did you consider going further on in the process before presenting an FM? You will appreciate that, as a committee, we cannot have a great deal of confidence in the FM, as presented, for the reasons that you have set out. For example, did you consider using co-design to get more firmness around the figures?

**John Kerr:** Since the most recent Scottish election, we have been working hard with the sector on the vision of what a framework might look like. We are now working through how that might be implemented. It is fair to say that there has been criticism about the time that that has taken—we all recognise that. However, it is also important that we take the right amount of time to get that process right and to bring the industry with us, while continuing to support our farmers and food producers across Scotland, which we are doing, and continually improving that process, as well.

We are currently at the point where, as you say, we have to present the documents to the committee as required under standing orders. Would it have been better if we had taken longer to do that? Yes, but then you would not have had the financial memorandum to scrutinise in advance of the bill process. We are trying to do those two things in parallel, because that is the right thing to do, rather than rush through it and present something that is perhaps less accurate but might look better. We are being honest about where we have got to, and it is as good as we can make it at this stage.

**Michelle Thomson:** Do you understand the point that I am making about the role of the

committee members? For the reasons that you have set out, there is a question as to how confident we can be in the numbers, as presented. I have asked this question of witnesses before. On a scale of zero to 10, where zero is no confidence and 10 is absolute confidence, what number would you give me specifically on the FM, as presented today?

**John Kerr:** I am very confident that what we have done presents an accurate picture up to the point where we are, notwithstanding that the 11 per cent figure should, I think, be 8 per cent. That is as good as we can make it.

We know that the accuracy of the figures on how much the transition is likely to cost us will improve as we go through the business case, and we know that the cost to businesses of compliance in the new framework will improve. We will tackle that during the impact assessments for the subsequent legislation. That is as good as we can make it, given that we are trying to do this in an incremental way with the sector.

**Michelle Thomson:** That goes back to the convener's earlier point about framework bills. If you are saying that the bill is as good as it can be at this point and that further clarity over numbers will emerge later, that will happen beyond the point where the finance committee has oversight of it, which will necessarily lead to considerably less financial scrutiny from a parliamentary point of view. Therefore, logically, there will be a higher probability of increased costs, because we do not have our fingers all over it from a purely financial perspective. Do you recognise that that might be a concern for us? We are repeatedly noting that we have incredibly constrained public finances, but in the face of that constraint we are building less scrutiny into the processes.

**John Kerr:** I recognise that you would feel that way about it. The important thing is that the bill provides us with the powers to continue to support farmers in rural Scotland. In introducing the bill, we have set out the purposes for which that support is intended, and we intend to use as much of the available budget as we can get from the UK Treasury settlement with Scotland and other Administrations. I am very confident that those things are right.

The specific budget that we will get is unknown, and it will be unknowable within the lifetime of this parliamentary session. We are duty bound to take the powers to continue to support farmers during this parliamentary session; otherwise, the sunset clause—

**Michelle Thomson:** You cannot introduce yet another cliff edge, on top of the UK Government one.

**John Kerr:** Exactly. That is where we are, and I think that ministers and the financial memorandum have set out in good faith where we wish to be. We believe that the powers in the bill are the right ones to take. The implementation measures will be scrutinised in due course when the secondary legislation is introduced, as well as throughout the rest of the passage of the bill as more of the details emerge, although that scrutiny will principally be led by the other committee.

The other key element is that the budget setting in this area is scrutinised by Parliament through the budget process, and that would be the case with or without the bill. The amount of support available to farmers and the administration costs are already scrutinised by Parliament in the budget bill process in any case. That is the more important element of the scrutiny of the finances around agriculture, rather than the bill's financial memorandum.

**Liz Smith:** I associate myself with Michelle Thomson's remarks, and indeed with the comments of Mr Greer, Mr Halcro Johnston and Mr Mason, because they have all, in their different ways, exposed a lot of the uncertainty that you, Mr Kerr, have admitted exists.

This is an important bill, especially for the support of rural Scotland, which has been at the difficult end of a lot of considerations in recent times. If you were in our shoes as members of the committee, would you accept the financial memorandum?

**John Kerr:** Definitely.

**Liz Smith:** Can you explain why you think that it is acceptable when, as you have admitted, there are so many uncertainties in it?

**John Kerr:** The uncertainties are largely driven by external factors and by our desire to work with the sector to develop the best policy implementation that we can for the vision for agriculture. Those two things are demonstrated by our actions, including updating our route map of when we intend to bring forward the different pieces of support. We have also been pressing continually on the overall budget settlement with the UK Government since the last Scottish election, and we did so previously under Fergus Ewing. The Scottish ministers and the Scottish Government in general have been completely consistent on that issue.

All our actions have demonstrated our good faith in that area and we have set out the position with as much accuracy as we can. We are committed to working with the sector and the Parliament as we take each step and we have published when we are going to take those steps. That is why I think that, were I in your shoes, I would accept the memorandum.



**Liz Smith:** Mr Kerr, when Mr Greer was questioning you, he quoted the section of the financial memorandum that says that the precise split of funding across the tiers is yet to be determined. The financial memorandum goes on to say that that work is

“a key component of the codesign work currently underway”.

Can you tell us about that on-going co-design work?

**John Kerr:** On the mechanics of that, we are in routine dialogue with the agricultural reform implementation oversight board. ARIOB is a group made up of people from across the different land-based sectors, including some of the non-governmental organisations that Mr Greer talked about. We bring forward the vision and then say that, in order to achieve the vision for, for example, the beef calf scheme, we think that we need to introduce certain conditions. We then work with the sector on whether those conditions will work and the extent to which they will deliver the outcomes that we are looking for—in that case, reduced emissions. We then look at how we would implement that and at the associated delivery costs before presenting options to ministers for a decision. That is the mechanism for the co-design work.

**Liz Smith:** Therefore, that work is not determined by external factors so much as by what is going on in terms of Scottish Government policy. Is that correct?

**John Kerr:** It is driven by stakeholder engagement with our vision and intended outcomes. In that sense, we are working through that process with external parties but, yes, it is largely controlled by us—if that is your point.

**Liz Smith:** My point is that, if that work is controlled largely here in Scotland through the on-going co-design process—this is an issue that we have had in relation to other bills—how are we to interpret the on-going costs of the on-going co-design? How can we do that when we are not sure what the co-design will result in?

**John Kerr:** I am not quite sure—

**Liz Smith:** If there are on-going decisions to be made through co-design, as the financial memorandum says, how are we able to scrutinise the costs of that on-going co-design if it has not happened?

**John Kerr:** We are not yet in a position to know the costs of individual options, because we have not yet reached the point of final advice to ministers.

**Jamie Halcro Johnston:** I asked you why the process did not start earlier. Why did it not start

earlier? We are potentially five years behind other parts of the United Kingdom on that.

**John Kerr:** I am not sure that I agree with the premise of the question, which is that we are behind. I attended the NFUS conference in October. The NFU president Minette Batters talked about where she thought that other parts of the UK were at and was very envious of where we are in Scotland. Are we further behind? That depends on what you want the objectives to be—

**Jamie Halcro Johnston:** We could be more advanced. The process of co-design and introducing the framework bill and so on could have started earlier.

**John Kerr:** It could have done but we undertook to provide a period of stability and certainty to the sector during and immediately after Brexit, which we did. Farmers and crofters in Scotland have a great deal of certainty about their current payments and payments for the next year or so. We have also set out clearly what we will deliver to them in future years in our route map. Therefore, we are taking our reforms forward at a different pace to other parts of the UK—that is true—but whether we are behind depends on what you are seeking to achieve.

We have made it clear—in the climate change plan process, for example—that climate change is an important focus for us in Scotland. We have worked with climate change focus farms, and the monitor farms process has been focused on those aspects. Our policy journey in support of those outcomes has been steady and clear for some time, and we are now at the natural next step. The timing is in Scottish ministers' hands, but judging things by another territory's approach is not necessarily a good yardstick.

11:15

**Jamie Halcro Johnston:** As I said, I wanted to get some clarity. John Mason talked about the IT support and the £60 million total cost for that, according to table 5 in the financial memorandum. Is that the cost for streamlining or improving the current system or is it for delivering the new system?

**Mandy Callaghan:** It is not possible to separate those things completely, because we need to do a technical evaluation of what needs to be kept in the current system and what might be new. We are still working through that and looking at the structure and the capabilities. For example, we are looking first at capabilities and asking what we need the system to do and how much the current system does of that and of what we might want to do in the future.

**Jamie Halcro Johnston:** So the figure in table 5 is very much a best guesstimate.

**Mandy Callaghan:** Yes.

**Jamie Halcro Johnston:** In March 2023, Informed Solutions was given a £24 million contract for a new IT system. Is that for an IT system, or is it part of the £60 million to review what is there?

**Mandy Callaghan:** I think that it is part of that—I am not certain.

**John Kerr:** We have undertaken to work with a range of external help, let us say, in order to maintain our current systems, look at what new systems we might have and evolve some of our systems to do a range of new things. From time to time, we engage with external contractors to help us with that. We are not best placed to say which of those contracts is doing which of those things, because that—

**Jamie Halcro Johnston:** I appreciate that, but we are looking at the finances. It might not be necessary to provide a new system, but if a new system were required, there would be additional costs on top. Would you say that that is the case?

**Mandy Callaghan:** At the moment, it is hard to say, because we are currently doing an assessment of what capabilities we are looking for, the extent to which current systems can do those things and whether it is desirable for us to use current systems to do them. For example, how would the maintenance or improvement of the current system compare with buying something new? We are looking at all those things, so it is impossible to separate them out and answer that right now. One can buy off-the-shelf systems, but we need to assess whether those represent better value for money than changing what we currently have. We have not done assessments of all those different options yet.

**Jamie Halcro Johnston:** I appreciate that it is not your area, but you will be aware that in 2012, a new system was brought in that was meant to cost £102 million but ended up costing £178 million, as John Mason said. There were huge cost overruns, and we saw massive disruption to the sector with costs on top of that. My fear is that we do not seem to have clarity on the potential cost of a new system and what we are actually looking to deliver.

**John Kerr:** This committee, or its predecessor, took evidence on that at the time. We are keen to avoid the situation that we got into with the CAP IT futures programme. I was in the directorate, although not in my current role, at the time, and that experience was bruising for everyone concerned, including front-line staff who were

facing farmers, so I totally recognise what you describe.

We have set out in table 5 the additional costs, not the overhead cost of our current system. What we set out are the transition costs, and those figures are the best guess at the moment.

One of the issues with the previous build was perhaps forecasting the cost too low at the start, so we were rightly criticised for an overspend. We are keen to avoid that mistake. We have set out what we can in the financial memorandum, and we will improve on that. We are working with the assistance of experts in this area to put together a more accurate costing of a future build, and the options for that.

**Jamie Halcro Johnston:** But if a completely new system was required, the figure of £60 million in table 5 would not cover that.

**John Kerr:** The figure of £60 million is what we are currently forecasting for digital infrastructure, but that might not be accurate, and we will come forward with a new figure in due course. At the moment, we are forecasting that that is what the new system will cost, but—as you said—last time around, that system eventually cost £178 million, or whatever it was, as was published in the Public Audit and Post-legislative Scrutiny Committee's report.

**The Convener:** That concludes questions from the other committee members. I have a couple of questions to wind up.

First, on subsidies, paragraph 68 of the financial memorandum says that

“those who deliver sustainable regenerative farming will benefit the most. In future, support will be focused on food production, actions that support nature restoration and reduce greenhouse gas emissions in a way that is economically and socially just”

and by

“maintaining base payments with conditions that all farmers, crofters and land managers should be able to meet if they choose”.

In relation to everything that I read out in the first sentence, the words “if they choose” almost mean that it is a case of, if they do not want to do it, they do not have to. What incentive will there be to ensure that farmers deliver on what the Scottish Government is seeking in relation to improved food production, better climate action and so on?

**John Kerr:** We wrote it in that way because we anticipate that all farmers will continue to engage with tier 1 base support given that it will be associated broadly with the current conditions, along with some more that we are bringing in to improve baselining and one or two other things. We strongly envisage that that support will be

taken up by those who are currently engaged in food production, and will continue to be.

We are less certain that there will be engagement in tier 2, which will have a significant amount of support associated with it for most businesses, but will also require them to contribute more in relation to environmental and nature outcomes for that support. Currently, we do not envisage making that tier compulsory. Therefore, if farmers choose not to engage in the measures that we bring forward, they would also not receive the payments associated with them.

**The Convener:** That is not really what it says there. It suggests that they will still get the payments whether they meet those conditions or not. That is how it reads.

**John Kerr:** It is not intended to read that way; it is intended to mean that farmers will receive support only if they meet the requirements of each of the tiers.

**The Convener:** Okay.

My final question is with regard to an issue that no one has brought up before, which is the national test programme. The financial memorandum states that the programme

“will support and encourage farmers and crofters to learn about how their work impacts on climate and nature, including offering financial support to carry out carbon audits, soil testing and nutrient management planning, establishing a clear baseline and options for action for all who participate.”

At this point, I declare a constituency interest. Given that 19 per cent of greenhouse gases from Scotland are agricultural, is the Scottish Government looking at introducing the food additive Bovaer in relation to greenhouse gas reduction? The additive is being developed by DSM in Dalry, which is in my constituency.

DSM was opened by the previous First Minister on St Andrew’s day 2022, with £100 million private investment and £12 million from the Scottish Government. The additive will reduce methane outputs from sheep and cattle by 20 to 30 per cent. However, I see nothing in here about farmers being incentivised to use such an additive, which is already being used in many areas. Indeed, the Dalry factory can provide the product worldwide. It is a huge success. DSM chose Dalry over 35 other locations worldwide for its production—I am delighted that it is in my constituency.

We are targeting methane reduction, but I do not see anything about such a product, which would be less than 3 per cent—just over 2 per cent—of the agricultural bill, but could deliver phenomenally in terms of greenhouse gas reductions through agriculture. Will there be

encouragement and financial support for farmers to use it?

**John Kerr:** At the time of writing the financial memorandum, I do not think that Bovaer had been approved for use, although it has been approved now. As it happens, I was also at the opening and saw the great work that DSM is doing in relation to local employment.

We absolutely recognise the use of Bovaer as part of delivering emissions reduction. It is built into some of our thinking in the climate change plan on the measures that can be used. We have to work through how it is then reported in the national emissions inventory. We need to work through that issue at a UK level, and not just in Scotland. Then there is the monitoring and verification of its use on farms, as it has to be used properly in order to get the 20 to 30 per cent reduction in emissions that the convener talked about.

We want to work through those issues with the sector. Bovaer is very much on our radar, and the livestock production team in my area is currently working on that, among other things. Of course, there are other ways to reduce emissions from cattle—breeding is also important, for example—so it is not the only mechanism. Furthermore, the approval does not currently extend to all ruminants. It is therefore a larger issue. However, there is certainly a place for using the additive in the dairy sector, and it is part of our planning.

**The Convener:** I thank Mr Kerr and his team for their evidence, which has been very helpful.

We will consider in private the evidence received and any steps that we may wish to take next in relation to the scrutiny of the financial memorandum.

11:26

*Meeting continued in private until 11:53.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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