



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 26 June 2019

Session 5



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CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
NON-DOMESTIC RATES (SCOTLAND) BILL: STAGE 1	2
SUBORDINATE LEGISLATION.....	41
Private Landlord Registration (Information) (Scotland) Regulations 2019 (SSI 2019/195).....	41
Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Amendment Regulations 2019 (SSI 2019/204).....	41

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
19th Meeting 2019, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Alex Rowley (Mid Scotland and Fife) (Lab)

COMMITTEE MEMBERS

*Annabelle Ewing (Cowdenbeath) (SNP)

*Kenneth Gibson (Cunninghame North) (SNP)

*Graham Simpson (Central Scotland) (Con)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Ken Barclay

Rachel Blair (Charity Retail Association)

Marc Crothall (Scottish Tourism Alliance)

David Lonsdale (Scottish Retail Consortium)

Stuart Mackinnon (Federation of Small Businesses)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament
Local Government and
Communities Committee

Wednesday 26 June 2019

[The Convener opened the meeting at 09:45]

Decision on Taking Business in
Private

The Convener (James Dornan): I welcome everyone to the 19th meeting of the Local Government and Communities Committee in 2019. I remind everyone present to turn off their mobile phones.

Agenda item 1 is consideration of whether to take items 4 and 5 in private. Are we agreed?

Members indicated agreement.

Non-Domestic Rates (Scotland)
Bill: Stage 1

The Convener: Under item 2, the committee will now hold its fourth evidence session on the Non-Domestic Rates (Scotland) Bill. Today's session will be split into two panels. I welcome our first panel: Rachel Blair, the Charity Retail Association's public affairs and communications officer for Scotland; Stuart Mackinnon, external affairs manager for Scotland for the Federation of Small Businesses; David Lonsdale, director of the Scottish Retail Consortium; and Marc Crothall, chief executive of the Scottish Tourism Alliance. Thank you all for attending and for your written submissions.

I will kick off the questioning by asking whether the findings of the Barclay review group and the subsequent bill represent a fair approach to non-domestic rates that will better support economic growth.

David Lonsdale (Scottish Retail Consortium): We must hold up our hands: we were in the vanguard of campaigning for a review of business rates, and we strongly supported the work that was done by Ken Barclay and his group. We did not necessarily get everything out of the review that we would have liked to get, but there are many measures, both in the Barclay report and in the bill, that we can get behind and support.

The agenda to have more frequent revaluations gets a big thumbs-up from us. I can go into the reasons why that is the case in more detail. We also support the efforts to reduce the period from when valuations are undertaken to when they come into effect. That has been condensed from two years to one year.

We would like to see more being done on the business rates agenda that is not necessarily legislative. I would point to two aspects. One is the large business rates supplement. Ken Barclay's report alights on that, and says that parity with England should be restored by April next year. I hope that the committee will broach that with Mr Barclay when you speak to him later on.

The other issue, which is pretty fundamental for us and for our members, who account for about a fifth of the business rates that are paid in Scotland, is the whole issue of how onerous the poundage rate is at the moment. It is at a 20-year high and has accelerated markedly since the start of the decade. That is a big issue for us.

There are lots of positives in the bill, but there is more still to be done.

Stuart Mackinnon (Federation of Small Businesses): Absolutely. David Lonsdale is taking credit for the Barclay review, and I will do

the same. The First Minister announced a review of business rates at the FSB's conference a number of years ago. We were closely involved in the Barclay review. Fairly early on, it emerged that the review would be focused on modernising the current system, rather than fundamentally rethinking the business rates system. The review is aimed at doing that, and we applaud many of its recommendations.

Since Ken Barclay reported, work has been done to try and put his recommendations into practice. The bill that is before us is one part of a jigsaw of measures that we broadly support. The switch to a more frequent revaluation cycle should ensure that rateable values better reflect prevailing local market conditions. We broadly support the other bits and pieces in the bill.

We would like the Barclay review, and the focus on business rates that comes as a consequence of the Barclay review, to deliver a step change in the user-friendliness of the business rates system. I am sure that, at the time of the last revaluation, many MSPs had correspondence from local business owners who did not have a good understanding of the rates system and the revaluation process. We would like there to be a real effort to get every part of the business rates system working together to deliver a more user-friendly system. The proposed legislation is a part—but only a small part—of delivering that.

Rachel Blair (Charity Retail Association): I am here representing the Charity Retail Association. There are more than 900 charity shops in Scotland, and we represent 85 per cent of them.

Overall, we support the objectives of the bill and the Barclay review to simplify the system for ratepayers. We were pleased that the Barclay review concluded that the mandatory level of charitable relief for charity shops should be kept at 80 per cent. That should be protected. We hope that there will be consideration, by local authorities or during the bill's progress, of upping the mandatory level of relief to 100 per cent.

The health of the high street should be a key consideration in the bill. Charity shops increase footfall in high streets and help to fill vacant units. Our case studies—particularly the one in Margate, in England—show that, during the recession, there were a lot of empty units and there was a decline in the high street. Charity shops filled the vacant units, which allowed footfall to increase, and Margate is now quite a successful seaside destination. It is important that the bill considers the importance of the charity retail sector.

Marc Crothall (Scottish Tourism Alliance): I thank the committee for inviting me. I am from the Scottish Tourism Alliance.

We welcome being part of this process. With our colleagues from UKHospitality and the Scottish Licensed Trade Association, we have been active in representing the views and concerns of the industry. The volume of visitors that we are enjoying brings with it many challenges. We are seeing specific declines and cost increases for businesses, which pose a big threat to many.

We were particularly grateful that the finance secretary afforded a 12.5 per cent real-terms cap on the rates at the last valuation, and that cap has been extended again. However, for many, the cap has become null and void due to the state aid caps and so on.

As others have said, we very much welcome the review of the frequency of valuations, particularly given the fluctuation in business trends and trade. Aberdeen is an obvious example to point to, given the impact of the oil industry on the tourism business.

A challenge for our sector has been the calculation methodology that is used in the current rates system. Along with colleagues from the SLTA and UKHospitality, we have had dialogue with others about Ken Barclay's response in bringing forward a proposal that might be more satisfactory and fairer for the future. We are very supportive, in principle, of any proposals that encourage investment and entrepreneurship. The industry needs to innovate, and it needs flexibility to be able to do that.

I can talk more about other issues and concerns later. However, in summary, as others have said, the bill is a good step forward, but there is still more to do and discuss.

The Convener: Do you have any views on the two recommendations from the Barclay review that the Scottish Government rejected? Recommendation 28 said:

"All property should be entered on the valuation roll ... and current exemptions should be replaced by a 100% relief".

Recommendation 29 said:

"Large scale commercial processing on agricultural land should pay the same level of rates as similar activity elsewhere so as to ensure fairness."

Do you have an opinion on those recommendations?

David Lonsdale: To pick up the start of your question, I think that Ken Barclay made another recommendation that the Scottish Government rejected, which was the idea of introducing an out-of-town rates levy that councils would be able to use. The finance secretary wisely came to the view that that idea would not be taken forward, and I commend him for taking that decision. I am happy to go into more detail but, in a nutshell, that

proposal would have added fresh complexity and cost to the rates system. Thankfully, he has not progressed that idea.

Stuart Mackinnon: I can understand the purists' argument that all properties should be on the valuation roll so that we can see where tax is being lost, which is what people are getting het up about. On the other hand, having been in discussions with assessors and with the Government, I know just how slow and creaking the current system is, so to put additional pressures on assessors at a time when we are looking to move towards more frequent revaluation might not be sensible. The priority among our concerns is to get the new revaluation cycle working more quickly.

The Convener: Thank you. I place on record the committee's thanks to everybody who helped to organise its very successful visit to Kilmarnock and Newmilns on Monday, from which members learned a lot. One of the things that came up was the cliff-edge scenario involving the small business bonus. We talked to one company owner who does not want to grow his town centre business by moving to larger premises there, because he would then lose the small business bonus and it would end up costing him too much. His options were therefore to stay small or to leave the town centre. Do our panellists have any suggestions on how such a situation could be overcome?

Stuart Mackinnon: The upcoming review of the small business bonus will be a great opportunity to kick around ideas for improving the current scheme. We hope that the review will come up with recommendations on the best way to support smaller businesses in the rates system.

At the time of the last Scottish Government budget, the FSB made representations to the Cabinet Secretary for Finance, Economy and Fair Work for an additional taper between bands. Of course, successive finance secretaries have made changes to the small business bonus. For example, when he was finance secretary, John Swinney introduced a multiple property band that was aimed at tackling that problem.

As part of the Barclay review, we recommended that smaller businesses should be allowed to keep their reliefs as they grew. For example, if a business took on a second set of premises, it would pay rates on that but retain its relief on the first set, which was an attempt to soften the edges of that change. At the same time, we recognised that we cannot necessarily ask for the moon on a stick and that we have to work within certain parameters. Trying to chew over what are pretty complex issues in order to find an optimum way to support small businesses will be very important as the bonus review continues.

The Convener: I will move on, but I am sure that we can come back to that point if we wish. We have a quite a lot to get through, so could we keep things as concise as possible?

Alex Rowley (Mid Scotland and Fife) (Lab): I want to go back quickly to what was said earlier about the user friendliness of the system. In the panel's view, what needs to happen? I assume that it is not legislation, but is it a matter of resources, or is a change in culture in those services required?

Stuart Mackinnon: It is all of the above. I have worked for the FSB for a number of years. There was a remarkable similarity between the last revaluation and the one before it, in which lots of businesses were caught unaware, there were data collection issues from the assessors and there was a political reaction at that point. An awful lot of such problems could be countered if we were to deliver a significant improvement in customer service. One of the more difficult things about the rates system is that lots of public bodies are involved in it: all 32 local authorities; the Scottish Government; and the assessors, all of which are semi-autonomous. An individual business owner should not need to know all that in order to interact with the system.

We propose having a digital interface for 99 per cent of cases, in which businesses could submit rental data, pay their bills and apply for reliefs. The aim would be to make it as simple to interact with the rates system as it is to pay a utility bill online. However, for that to happen we would need to have co-operation among multiple organisations, which is where the sticking point might be. Lots of organisations have many priorities. Legislation might not be needed, but if certain bodies were not playing ball, it could be a last resort on that front.

10:00

Graham Simpson (Central Scotland) (Con): Convener, I have a brief question on that point.

The Convener: You can ask it, then I will let Alex Rowley back in. I do not want to get stuck on that one point.

Graham Simpson: Mr Mackinnon's written evidence describes the admin system in Scotland as "old fashioned", and suggests that it is not old fashioned elsewhere in the United Kingdom. The committee is looking for ideas about how things could be improved through the bill.

Stuart Mackinnon: The evidence from the assessors highlighted that they would welcome a change in legislation that would allow them to communicate digitally with ratepayers. At present, the assessors feel that they have to use paper-based correspondence methods. That simple

switch should help us to move slowly into the 21st century. In Northern Ireland, we can see the development of a digital spatial portal for all property and land-based services, which looks like an excellent model. Legislation is not necessarily needed to develop that, but if there are legislative barriers to that model being developed in Scotland, the bill is the opportunity to address those problems.

Alex Rowley: My experience of representing and supporting businesses at the last revaluation was exactly as you describe. I found it difficult to get enough information to understand the situation. At that point, it seemed that the hospitality sector—in particular, pubs and restaurants—was being disproportionately impacted. That is certainly how it felt from the number of companies that were going out of business. Is it the case that some industries are disproportionately impacted by the current rates system and, if so, can something be done about it?

Marc Crothall: In the tourism sector as a whole, we were aware that, when revaluation was coming round, the increase in valuation was going to be significant, so unless there was an intervention, as happened, many businesses would have been at serious risk of having to put the key away. Some businesses still have that concern, because of the current valuation levels that are on the book.

On Stuart Mackinnon's point about simplicity in reporting of data, the assessors made the fair point that not enough data is presented back the other way for them to do their job, and that has been taken on board. I go back to the simple example of the process of getting rates relief from a cap across the 32 local authorities, in which there is inconsistency. Some local authorities were well equipped to act quickly, but others said that they did not have the correct software to conduct the transactions or make adjustments as we would have wanted. All that costs money to businesses and puts them at risk of not being able to stay alive.

David Lonsdale: For the retail sector, one of the great frustrations about the previous revaluation period was that the revaluation was undertaken in spring 2008—in a sense, at the top of the market, before we had the financial crash and the well-known travails of the retail industry in recent years. That underpins the need for more frequent revaluations. Although that would not solve every problem—as I said, business rates, the poundage rate and tax rates are too high—more frequent revaluations would smooth out a lot of the problems.

Basically, we had a seven-year or eight-year period when values were set at one level, but when bills landed on doormats, some

organisations in some sectors would have experienced quite a change in their sector's performance. Marc Crothall can speak for the hospitality sector: some elements of it were—if you like—hot during that period and did well, and therefore there would have been differences. However, for the retail sector things were challenging towards the end of that period.

Alex Rowley: You made a point earlier about out-of-town retail centres. Is there a good balance between out-of-town retail centres and town centres? A lot of retailers in town centres argue that out-of-town retailers have a lot of advantages—car parking and so on. Is the system fair as it is, or should there be another look at out-of-town centres?

David Lonsdale: We are always open to that. Town centres have a tremendous amount to offer, but like all businesses and sectors, they need to reinvent themselves, in particular because people need a compelling reason to spend time and money there.

I think that all retail destinations have been struggling: all have been ceding ground to online retail. The other day, I saw a figure that suggested that almost nine out of 10 people in this country have shopped online in the past year. The figure is much higher in this country than it is elsewhere in Europe. The situation here is much more advanced—we have bought into the idea of online retailing in a bigger way.

That reads across to a range of other sectors. For example, I am probably not the only person who has bought a holiday online in recent times. The same thing can be seen in banking and financial services, newspapers and other media, estate agents and so on. The digital revolution is touching every sector. One of the strengths of the bill is that more frequent revaluations will mean that the rating system keeps up with changes not only in individual sectors and how they are performing, but in relation to structural changes in the economy.

Alex Rowley: Town centres, in particular, are really struggling. You just need to walk around most areas of Scotland to see that. Is there more that the bill could do to support town centres? If so, what?

David Lonsdale: Again, that goes back to my earlier point. As far as we are concerned, the bill is positive in many respects, but non-legislative action is also required. Lots is being done in terms of public-realm investment and so on to get people to live in town centres—the Cabinet Secretary for Finance, Economy and Fair Work has made an announcement about a town centre fund, for example. All those things are worthy, positive and have a lot of merit but, at the end of the day, if it is

too expensive for retailers and other businesses to invest in town centres—I note that the poundage rate is at a 20-year high and that the large business supplement is double what it is south of the border—then you have a problem.

There is an issue with coherence. We think that there is a lot of merit in the bill, but it is only one aspect of what must be done. There are other things that government can do—not just the Scottish Government, but local government. For the past three and a half years, councils have had the power to reduce business rates, but I am aware of only three of the 32 local authorities having done anything on that front.

Stuart Mackinnon: I would like to come in on a couple of those points. The rating of the hospitality sector has been a fairly persistently controversial issue. I suggest that, because it has been such a persistent problem, Parliament might want to take the opportunity to scrutinise the role of assessors. Historically, Parliament has been reluctant to do that, but the bill might present it with an opportunity, ahead of the next revaluation, at the very least to get assessors in to give evidence about how they come up with rating methodology.

The FSB has long been a champion of town centres and high streets. At the moment, in a lot of town centres and high streets, it feels like independent businesses are fighting the battle by themselves. Many large businesses—banks being a prime example—have left our high streets. If we want them to be successful, we need to get a wide range of organisations back into them. The right rates package would be one element of that, but it will work only as part of a wider mix of policies.

I am sure that the upcoming small business bonus review will look at place-based issues. That might not be something that has to be attached to the bill; it might be possible to consider it in another way. It is just over five years since the town centre action plan and review was launched. It is time to revisit high street policies: rates is only one part of that.

Alex Rowley: Does the panel generally support the small business bonus scheme and the review to which you will contribute?

Marc Crothall: I would echo what Stuart Mackinnon and David Lonsdale said. Tourists come to visit places in order to experience them. We are starting to shape our future tourism strategy for Scotland beyond 2020, and all the traveller trend data is showing that people want to absorb and consume. We have seen changes in behaviour in relation to how people choose to stay at and experience destinations.

We have seen failures of major restaurant chains—for example, Jamie Oliver's restaurants—and other operators that have fallen off the high

street that were offering alternatives. We have a lot of independent restaurateurs and real creative talent in Scotland. Those people are now seriously questioning whether they can afford to operate in some places because of the rates structure.

Everything that has been discussed so far is about frequency of revaluation and allowing businesses to flex, but equally we have out-of-town experiences at many destinations, which draw and attract tourists.

We have asked the Scottish Government on several occasions to really get a grip on what the assessors are doing in terms of methodology and the evaluation process. The challenge is partly due to lack of data. However, much clearer understanding is needed for the benefit of the industry, as much as for the benefit of assessors and the Government, so that we can get regular and more frequent revaluations that work for the sector. That will prompt investment: not being able to plan ahead does not encourage investment.

Rachel Blair: In terms of long-term planning, there is some uncertainty around the 80 per cent rates relief that charity shops currently get, because there is a postcode lottery in terms of application of discretionary relief. Only a third of local authorities in Scotland grant the full 20 per cent of discretionary relief, and our members tell us that where the 20 per cent relief does not exist or has been removed, that can result in lower-performing shops closing, in rural areas or in disadvantaged communities.

We are looking for a system in which there is more consistency across local authorities, which will allow charity shops to invest in high streets. As it is, that can be quite difficult.

Alex Rowley: Okay. My experience of trying to deal with assessors was a one-off, but they were—to put it mildly—certainly not helpful. I think that it is important to note in our report that concern is coming through from the panel about that, and that something needs to be done, even without legislation.

The Convener: Thank you. You have made your views known.

Alex Wightman (Lothian) (Green): A key aspect of the bill is the move from five-yearly to three-yearly revaluations. I do not think that Rachel Blair has said anything about that, but the others have said that that move is helpful. Why do you think that that would be helpful—in particular, in the context that a revaluation is only as good as the data on which value is based? If issues about capturing data and the accuracy of the data continue to exist, will a move to three-yearly revaluation help?

David Lonsdale: From the SRC's perspective—as I alluded to earlier, and as is set out in our evidence—we strongly support more frequent revaluations. A number of benefits will accrue from that.

There is also a provision in the bill to extend from 14 days to 56 days the time that ratepayers are given to provide information to assessors. That should help, because the short period of time is, I suspect, one of the challenges for ratepayers. When they have a window of only a couple of weeks to provide information, it is a matter of saying, "We'll just try to appeal." Their having more time to consider what information is required will be positive.

Theoretically, more frequent revaluations should mean that ratepayers will get up to speed on what information to provide over a relatively short time. There will be greater incentive to ensure that they provide the information, because they will be revalued more often.

10:15

Stuart Mackinnon: My answer will be similar to what David Lonsdale said. There will be a challenge. The current system is not working very well with five-yearly revaluation, so three-yearly revaluation will mean that we will really have to sharpen up our act. Among the reasons why we support the switch are that ratepayers will become more familiar with the revaluation process, and it should necessitate the assessors and local authorities looking at how they deal with it. Those things in themselves would be helpful in making the system a little more user friendly.

Marc Crothall: When we look at what is happening around us, we see that we need to be able to flex relatively quickly. I will use the example of digital. In 2012, when the current tourism strategy was written, the word "digital" featured in it only three times, but by 2016 it was the number 1 issue for all of us.

There is also less chance that the jump between rates valuations will be as significant as it is could be with a longer period between revaluations. Therefore, we certainly support three-yearly revaluation.

Rachel Blair: The Charity Retail Association is broadly supportive of a change from five-yearly to three-yearly revaluation, but we also ask for relief to be confirmed within the three-year period. Currently, relief is confirmed yearly, which makes long-term planning difficult for our members. We also want to ensure that that is carefully considered, so that there is not an unnecessary burden placed on smaller charities, in particular.

We are also broadly supportive of a digital interface, which should—I hope—make communications better. Our members have told us that communications can be quite poor around revaluation times.

We also ask for the revaluation times to be aligned with the other revaluation times in the UK. That would help a lot of our members.

Andy Wightman: Stuart Mackinnon's written submission on behalf of the Federation of Small Businesses says on its second page that

"FSB has concerns regarding the decision to introduce a number of changes to the proposed legislation at Stage 2, reducing the opportunity for scrutiny".

What do you mean by that? We have not reached stage 2.

Stuart Mackinnon: I understand that the Government will detail in Parliament, at stage 2, changes to the appeals system, and that the details of those changes will be important to ratepayers in terms of understanding how that system will work. I understand that from having been part of the Barclay review group.

Andy Wightman: So, you have had advance sight of intended Government amendments.

Stuart Mackinnon: No—but I understand that that is the intention.

Andy Wightman: Okay. That is interesting.

You also said that

"FSB has long argued that the Scottish Parliament should have a role in scrutinising the activity of assessors."

You have already touched on that. Assessors have always been independent, of course, because they make professional judgements about valuations. You have mentioned the methodology of valuation—I think that you mentioned the hospitality sector in particular. Different types of property have different valuation methods, of course. Are you suggesting that the methodology that is used to value hospitality premises, for example, should be subject to parliamentary scrutiny, such that all the practice notes would, in effect, be in secondary legislation, or are you saying something else?

Stuart Mackinnon: At the very start, ahead of a revaluation, it might be useful to have the Scottish Assessors Association at this or another committee to ask about its preparation ahead of the next revaluation, and about its consultation of key industries on its methodology. The assessors would still be independent in making up the methodology, but there should be a role for Parliament in asking how they are preparing for revaluation.

Andy Wightman: Assessors are accountable not to Parliament but to local authorities, which own the joint valuation boards, so surely such scrutiny would be done better at council level.

Stuart Mackinnon: Having entered into a discussion with local authorities and local councillors about their relationship with the assessors, I know that that particular relationship is not well understood consistently across the country.

The Convener: You say that that relationship is not well understood. Andy Wightman's reading of the situation is that local authorities are in charge of the assessors. What is your understanding?

Stuart Mackinnon: My understanding is that local authorities are in charge of them, but it is often the case that individual councillors and local authority officials do not have a good understanding of the role of the assessor.

Alex Rowley: In Fife, during the revaluation appeals process, the assessor told me repeatedly that they were not accountable to the council and that they were an entity unto themselves, so I think that we need to look at that.

Andy Wightman: In the section of its submission on holiday homes, the FSB says:

"FSB broadly supports measures to address the misapplication of the Small Business Bonus scheme—especially when applied to non-business recipients of the relief."

Given that the small business bonus scheme is about small, non-domestic-rated properties, some of which are not businesses—they might be in the public sector; they could include bowling clubs or whatever—are you saying that if no commercial activity is being operated from a non-domestic property, it should not be eligible for the small business bonus scheme?

Stuart Mackinnon: We are broadly supportive of the specific measure in the bill to remove what the Government describes as a "loophole", whereby owners of second homes are applying for the small business bonus. In our view, that is a misapplication of the relief. It has been highlighted to us that MSPs' offices are eligible for the small business bonus. Given the name of the relief, I am not sure that its application to those properties would necessarily be right. Such issues will be looked at during the small business bonus review. However, we are broadly supportive of the move to apply the small business bonus only to premises in which small businesses are being run.

Andy Wightman: That is interesting. MSPs' offices are just offices as far as the rating system is concerned; it does not matter who occupies them.

The Scottish Retail Consortium says that it is

"firmly opposed to repatriating control over the poundage rate to local authorities."

Given that it is a local tax, should local authorities not have control over the rate? What is the problem?

David Lonsdale: You have read our submission correctly. We are opposed to that, if for no other reason than we fear that ratepayers would be treated as a cash cow. We are conscious of the fact that council tax bills have just gone up by 3 to 5 per cent, which is well in excess of inflation. As I said in our submission, the poundage rate—the tax rate—has gone from 41 to 49 per cent since the start of this decade. It is at a 20-year high, and it is about to go up even further. I am not convinced that local authorities would do a better job of keeping down the poundage rate.

We would be more amenable to the proposal if councils had picked up on and used the local discretionary rates relief over the past three years, which I mentioned earlier.

Andy Wightman: Have you not put your finger on the key thing, which is that local authorities have the power to reduce rates? Indeed, many of them would probably like to do that to stimulate some business, but they need to have the opportunity to increase them, too—in other words, in any tax system, they need full flexibility.

David Lonsdale: We have supported flexibilities in the rates system, whether they are in the form of the business rates incentivisation scheme or the levy that can be charged in business improvement districts. As I said, we supported the local discretionary rates relief, but hardly any councils have bothered their shirt to use it. If they were to make a convincing case that they would be able to keep down business rates, they would be on a firmer footing when it came to convincing the business community that they should have such responsibilities. However, very few councils have used their power to keep down business rates, and I am not entirely convinced that they would endeavour to do so.

Annabelle Ewing (Cowdenbeath) (SNP): I turn to some of the procedural matters. One member of the panel—I cannot remember which one—mentioned the time period for the return of information notices. Was it you, Mr Lonsdale?

David Lonsdale: Yes.

Annabelle Ewing: The period has gone from 14 days to a proposal of 56 days, plus the 28-day appeal. We have heard evidence that people think that 56 days is too long and that the initial period should be 28 days. What are your views on that?

David Lonsdale: I have not followed the rationale for the 28-day proposal. As I understand it, the 56-day period was in the Barclay review.

The team studied that for 18 months and it was accepted by Scottish ministers, so some consideration and thought has been put into it. I am not sure who made the 28-day proposal and why they advocated it, so it is difficult to comment.

Annabelle Ewing: It will be covered in the evidence that was received by the committee, but I guess that the rationale is that people feel that the 28-day proposal would allow the process to be accelerated in a reasonable manner. Most people would not need 56 days to provide the required information, and the process could be sped up. Perhaps it is in all people's interests to have a shorter deadline for providing the information that is required by the information notice.

David Lonsdale: Yes. A balance has to be struck, so that people are given sufficient time to respond but it is done in a quick and expedited way. One of the practicalities is that, in the retail industry, if someone has a good idea and a good proposition, it can be scaled up. If they have physical premises, they are often in a number of different council areas or operate on a pan-Great Britain or pan-UK basis. They probably have lots of local authorities to deal with on a range of issues.

One of the challenges that has come up in recent years through the structural change in how we shop, as well as the cost side of the equation, is that, within retailers of scale, relatively few people are there to deal with some of the issues. I appreciate that there is a balance to be struck, but giving people more time to respond to requests, as the bill does, is eminently sensible.

Rachel Blair: I agree. If our members had more time to respond to information requests, that would help them to provide what they need to provide.

Marc Crothall: I echo that. At the moment, there is a huge amount of pressure on a small business owner and operator; the bulk of our sector falls into that category. An expedient resolution is always in the best interest but, at the moment, many are asked to do a lot more. As we know, because of the labour challenges that we face, many more independent owner-operators are now at the sharp end of running a business. The balance is the right approach. If it affords a little more time, that would be welcomed, but I like to think that the business owner would look to conclude sooner than the deadline.

Stuart Mackinnon: As others have said, there is a careful balance to be struck. The policy intention is to get more data returned. The more important thing is probably for a step change in the user-friendliness of the system. Rather than asking, "When does this piece of paper need to be returned?", the more important questions are,

"Can I return it online?" and "Can I correspond with the assessor digitally?".

Annabelle Ewing: I understand that the intention is to widen out the recipients of the information requests, so that the assessor could seek information from any other person whom they think might have information. Do you have a view on that? Is it to be welcomed or resisted?

Stuart Mackinnon: Broadly, it is to be supported. Specifically, I see it working well in better information sharing in the public sector. If someone sticks an extension on their garage, within the local authority area, the information would automatically be shared with the assessor. At present, that does not necessarily happen as a matter of course. In an ideal situation, it would be excellent to see information sharing between tax authorities—between Her Majesty's Revenue and Customs and the assessor—so that businesses are not submitting the same data to both tax authorities.

I understand that the bill will provide for powers for assessors to get additional data from landlords, for example, rather than going to the tenant for the information. That is to be welcomed if it increases the amount and quality of the data. The only issue in that regard is that we would not want undue burdens to be placed on businesses. I hope that a sensible balance can be struck.

10:30

Annabelle Ewing: An issue was raised with us a few weeks ago to do with legal privilege. There was a concern that its applicability could somehow be widened, although it is not clear that that is in any way the intention of the bill. Has that concern been brought to your attention? The normal understanding of legal privilege is that it extends only to communications with the person's solicitor and therefore does not cover any part of a lease document that is deemed to be confidential. The issue was raised with us by the by and I thought that it was interesting.

Stuart Mackinnon: It is an interesting point, which I have not yet considered.

Annabelle Ewing: You might want to have a look at the evidence that we took. I suspect that if legal privilege is not to be understood in its normal context, your members might have thoughts on that.

Let us move on to the consequences of not providing information. First, the criminal penalty is being removed. It will be interesting to hear your thoughts on that; some people think that the penalty should be retained, because there has to be a sufficient imperative to provide information fully and expeditiously.

Secondly, the view has been expressed that the level of the civil penalty will be nothing more than pocket money for some of the people involved. There will be no imperative for the large players to pay heed to the requirement, because the penalty attached is de minimis.

Rachel Blair: Any fees or penalties would not be welcome in the charity retail sector. We are concerned that they would take funds away from key charitable causes—

Annabelle Ewing: I am sorry—we will come on to fees. I should clarify that I am talking about the penalty for failure to comply with an information notice. What would be the imperative to comply if there were no penalty?

Rachel Blair: I can look further into the matter and report back to the committee, but my impression is that charities would be inclined to follow the guidance and ensure that they did not face penalties. We do not support the use of fees, which would take away from charitable funds.

The Convener: At present there is a criminal penalty; the bill will replace that with a civil penalty.

Rachel Blair: I think that that is proportionate.

Marc Crothall: Stuart Mackinnon talked about the need for a simple system that enables businesses to contribute and input information. That is probably the number 1 opportunity to change culture. It could be argued that the challenges that we faced with the recent revaluation were to do with some businesses finding it difficult to communicate, respond and so on. There is a recognition that the data that is currently gathered is limited, so valuations are based on a small sample.

If we have a culture of acceptance that everyone contributes and there is access to information, through a portal that is simple, governed and protected, there absolutely should be a penalty for folk who choose not to comply. Why should there not be? What the penalty should be, I do not know. From the conversations that I have had, I think that a fair approach is needed, and to enable that to happen there should be a level playing field.

Stuart Mackinnon: Yes. A more frequent revaluation cycle necessitates the gathering of more data by the assessors. In discussions that I have had about that, we have talked about the need for sticks and carrots when it comes to gathering more data. Of course, the business groups will ask for the carrots and will argue that, if the system is made easy to use, things will get better. Communicating more effectively with the business community will bring better data, with more people returning it. We would like the fees and fines to be used only as a last resort.

At the moment, when people at a business receive a form from the assessor, whom they have not heard from for seven years—or the business might have been operating for only four years—they do not understand what the form is, or its significance. If we can improve communications between business communities and the rates authorities, we can get an improvement in data collection without resorting to widespread fines on the business community.

I was slightly concerned about some of the figures that are highlighted in the financial memorandum. There has been an attempt to estimate the amount of revenue from fees and fines using current rates for the non-provision of data. We would hope that the rates on the provision of data would improve dramatically, before we start handing out fines.

Annabelle Ewing: I hear what you are saying. The legislation has to set the level somewhere. The point has been made that, if the maximum penalty was set at £500—if the property is not on the roll—or at about £7,500, that would be a drop in the ocean for a business with a turnover of millions of pounds. What is the stick that would compel the large player to get on with it and provide the information? One of my colleagues will ask about anti-avoidance issues in due course, but we will have to wrestle with these issues as we prepare our report.

Stuart Mackinnon: There is a strong argument for any fees or fines to be proportionate, with smaller businesses paying a smaller share of their rateable value than their larger counterparts. I am sure that David Lonsdale will not agree with me on that point.

David Lonsdale: I think that being proportionate is a good basis. I am not sure why turnover suddenly comes into the mix. Why not use profits or some other metric as the basis? I am not sure what the relationship is between turnover and the point that you make.

Annabelle Ewing: My point is simply that, in separating out a small business from a multimillion-pound business, a penalty of £500 or £7,000 might provoke a response of, “Who cares?” It would not matter, would it? There would be no incentive to provide all the information required. That will be important as we get on to anti-avoidance issues, although I will leave that for a colleague.

I have one last area of questioning. A moment ago, Rachel Blair mentioned the issue of fees. There are proposals to introduce fees for appeals—that is one issue. The other side of that is the potential for retrospective increases to rateable values. Those are two very important

issues. Do you have any comments on either or both of them?

Stuart Mackinnon: The switch to a more frequent revaluation cycle necessitated a massive drop in appeals. I understand that, at present, only 8 per cent or so of appeals are successful. In the experience of our members, unrepresented businesses are almost never successful in their appeals.

On the subject of fees in association with lodging an appeal, the small business community could perhaps accept it if the fee structure was proportionate, perhaps tapering down to zero for the very smallest businesses, and if it resulted in a significant improvement in the appeals process. With the new fee income, there has to be a significant improvement in customer service.

Marc Crothall: I echo what Stuart Mackinnon has just said. Being proportionate is one thing. We expect to get a good service for what we pay for within the timeline, with affordability at different levels of scale of business.

To pick up on David Lonsdale's point about profit, as opposed to turnover, many different-sized businesses potentially make a lot more money on the bottom line, as a proportion, than larger businesses. There needs to be an agreed approach.

Annabelle Ewing: So, you would seek a differentiated fee structure, depending on criteria to do with size, turnover, profit or whatever.

Marc Crothall: Absolutely. There is such a wide scale of business base. We want to encourage future investment and growth; we do not want to penalise. As with anything, we expect a service to be given back.

There are umpteen different discussions to be had about various services that are currently provided; many would question whether they are actually worth the value that is paid out in return. Expectations are high.

The Convener: We move on to anti-avoidance measures.

Alexander Stewart (Mid Scotland and Fife) (Con): We have touched on some of the current loopholes. In the bill, there is a section on tax avoidance and the process of how that works. It would be good to get a view from the panel on whether the anti-avoidance measures in the bill that deal with empty premises are strong enough. Will they close some of the loopholes, or will that still be an on-going problem?

David Lonsdale: We have not really touched on that in our written submission; it is not something that our members brought to our attention as one of their top issues. I am simply

not aware of it being a systemic problem. It might be for others, but not for us.

Your colleague spoke about profits. In the past four years, it has been quite difficult for retailers to make a profit. The profitability of the sector has halved over the past five years. Retail is a low-margin business: the margin is somewhere in the region of 3 to 4 per cent, so it is different from a wide range of other sectors. We are not conscious that there is an issue.

Alexander Stewart: There are some retailers who do not use their premises—they ensure that their business is not live and running from that location. There are attempts to ensure that premises are being utilised if it appears that the owners are somewhere else or the building is not being used, but there are loopholes from which businesses currently benefit. We are talking about trying to clamp down on some of that in the bill to ensure that there is a change and that the issue of avoidance is taken on board.

David Lonsdale: We certainly do not have a problem with the Government or agencies clamping down on companies or other organisations, or ratepayers, that are believed to be avoiding their responsibilities.

The fact remains that the structural change in retail means that a lot of retailers have come out of retail premises. The figures that were published last week show that there has been an 8 per cent reduction in the number of shops in Scotland over the past 10 years. Retailers are in the business of making money. Where they are not making money from a particular unit or site, they hope to exit it or to change it round so that they can make money.

In recent times, there has been a shift towards much shorter lease periods than has historically been the case. Things could shift back if the economy improves, depending on various other factors. Retailers are not in the business of wanting to shell out a lot of money for units where they are not trading. As I said, quite a lot of retailers have exited properties in recent times. I am not conscious of empty properties being a particular issue.

Alexander Stewart: Does anyone else on the panel have a view?

Stuart Mackinnon: We broadly support the move to ensure that the small business bonus would no longer apply to empty properties; that is a tweak that we can live with.

Generally speaking, our typical member will not necessarily be involved in complicated tax-avoidance tactics. We broadly support the measures in the bill. The financial memorandum to the bill highlights evidence from England that, in the rates system, the level of tax avoidance is 1

per cent of the amount on the roll. In comparison with other taxes, therefore, avoidance is perhaps not as much of a problem, but it is good that local authorities will have the legal powers to address the problems that exist.

Another point that we make in our written submission is that it is all well and good for local authorities to have new legal powers, but the rates system must be well resourced if they are to be able to check whether existing reliefs are being used as they should be.

10:45

Alexander Stewart: In managing the situation, a financial burden might be placed on local authorities, which might impact on how effective and efficient they will be at dealing with the rates situation across the piece and ensuring that the business sector is supported. What would happen if that were the case? We know that local authorities are having to do a lot more with fewer staff and resources, and that could impact on your sectors.

Stuart Mackinnon: I have real sympathy for the local authority rates teams that I chat with. Often, there are only 0.8 full-time equivalent staff in those teams, even in significant local authorities.

I would suggest automating as much possible, so that local authorities are not dealing with paper forms. Basically, the machine should run itself, and would need to be looked at only if it breaks. As professionals, the staff could then spend their time checking the data, where appropriate, and looking at things that do not look quite right, rather than processing paperwork.

Alexander Stewart: Is everyone else content? I see that no one has any other views.

Graham Simpson: I have three quick questions, to mop up some of the things that have been said and some of the written evidence from the panellists.

I will start with the Charity Retail Association. Rachel Blair mentioned a postcode lottery, in that some charity shops get full relief and others—sometimes just down the road—do not. What is the association asking for in that regard?

Rachel Blair: We want local authorities to grant all charity shops 100 per cent rates relief, so that the 20 per cent discretionary relief becomes 100 per cent. We are concerned about inconsistency across local authorities. Our members are unable to plan for the long term because of potential changes to and removal of rates relief. Recently, Moray Council chose to remove the 20 per cent discretionary relief from charity shops, which is of concern to the sector in the area. That is just one

example of how change can happen quite quickly, which is not sustainable.

Graham Simpson: In your evidence, you mentioned that one shop gets the relief, but another shop just down the road does not. Is that because councils are zoning the relief? I was not clear about that.

Rachel Blair: Different councils have different policies. It is up to councils what to do. Some will grant relief to all charity shops, whereas others will set criteria—for example, that the charity must be local or have a certain number of shops. It is up to the council to decide its policy on the existing 20 per cent figure.

Graham Simpson: Your suggestion is that the bill should include a mandatory 100 per cent rates relief for charity shops

Rachel Blair: Yes.

Graham Simpson: I turn to the FSB's written submission, which mentions the appeals system, which could be moving to the tribunal system. Are there any thoughts on whether that is a good thing? That is for anyone to answer.

Stuart Mackinnon: The idea of moving appeals to the tribunal system predates Barclay. Again, our members' experience of the appeals system has not always been brilliant. That is especially true of unrepresented ratepayers, who have not forked out for professional property advice. With the move to the tribunal system, the process will probably be much more formal, which has its drawbacks. At the same time, it is likely to be more professional. Again, my understanding is that the move to the tribunal system—

Graham Simpson: I am sorry to interrupt you, but in what way is the process not professional now?

Stuart Mackinnon: Members' feedback on their experience with the current appeals system is that it varies from place to place, it can be inconsistent and how assessors discharge appeals is at their discretion.

People can only really understand the process if they have tried to follow the rates system for some time. The lay business owner is not necessarily very familiar with it. We hope that moving the process to the tribunal system will provide better information about how the system works for people who do not have a specialist understanding.

I highlight that the move to the tribunal system also necessitates there being fewer appeals. If the volume of appeals is still the same at the next revaluation and we have moved into the tribunal system, we will probably be in trouble. I recommend that the committee assesses the

robustness of the changeover to the more frequent revaluation cycle.

Graham Simpson: Just so that we are clear, is it correct that, currently, appeals are dealt with locally?

Stuart Mackinnon: Yes, but at present there is a pre-appeal stage during which someone can have discussions with their assessor—again, that is at the discretion of individual assessors—followed by the formal appeal system. Also, a share of the appeals that are lodged fall out of the system before they are seen. The data can be a bit foggy in that regard. As I understand it, only the appeals that end up at the final stage are counted in the official statistics.

Graham Simpson: Does anyone else have any thoughts on or experiences of the appeal system?

The Convener: I have a question about a point that Stuart Mackinnon just made. You said that the pre-appeal meeting is down to the assessor. Are you suggesting that people in some areas do not get that opportunity, or is it the outcome that is down to the assessor?

Stuart Mackinnon: Most of those discussions happen at the point of revaluation, so I can speak only to people's experience at the last revaluation. Many people phone up their assessor when their new valuation comes through, and different assessors have taken different approaches. I know that the assessors have their own programme of reforms and are working on standardising their approach. The test of that new approach will come at the next revaluation, but, historically, our experience is that different assessors have taken different approaches to that discussion period at the point when people receive draft rateable values.

Marc Crothall: I echo that. Some of our members have said that the pre-appeal discussion has literally involved a phone call, sometimes even from the car. Providing the security of a last stop through a tribunal process may be the way forward, but the volume of appeals would have to diminish. That could happen with an electronic approach.

Graham Simpson: I have a final question which is based on something interesting that the Scottish Retail Consortium said in its written evidence. The consortium mentioned that

“business rates are already paid on ... parking spaces”.

Often, particularly in business parks, the car park is closed off and people cannot use it, so business rates are not paid. The consortium mentioned another piece of legislation that cuts across the issue—the Transport (Scotland) Bill, which we are not here to talk about, and the potential workplace parking levy, which you describe as “double

taxation”. However, sticking with business rates and not moving on to the workplace parking levy, is the consortium suggesting that something needs to change?

The Convener: Beautifully done, Graham.

David Lonsdale: I was in front of the Rural Economy and Connectivity Committee a few weeks ago to discuss the workplace parking levy. As I understand it, the fact remains that, if the legislation is passed and councils get that power, they will charge a levy on part of the valuation roll for which business rates are already paid, so that is double taxation. There may be other examples of double taxation in both the devolved and reserved taxation systems in the round, but it does not seem to be a particularly sensible way forward.

We have a number of other concerns about the workplace parking levy, but in relation to rates our concern is that adding to the burden is probably not sensible. As I said, the poundage rate—the tax rate—is at a 20-year high, and a number of workplace parking spaces, depending on the property or building with which they are associated, will already be subject to the large business rate supplement, which in Scotland is twice the rate that applies south of the border.

We are in the fourth year of the large business rate supplement having been doubled and, over those four years, ratepayers in Scotland have paid an extra £250 million. In retail alone, somewhere in the region of £45 million to £60 million extra has been paid because of that doubling.

Kenneth Gibson (Cunninghame North) (SNP): The UK Government charges VAT on top of taxes—I am thinking of tobacco, alcohol and fuel duty, for example—so double taxation is quite common and is done on a large scale. We all probably pay huge amounts of money in that way. That does not make it right, but it is not uncommon.

I want to touch on a couple of things. Mr Lonsdale, I found paragraph 26 of your written submission particularly interesting. In it, you said:

“Ministers are forecasting that the annual cash value of rates reliefs will have increased by £159 million over the 4 years until 2019/20, to £750 million, a 27% uplift. The value of reliefs as a share of the total take from business rates rises over the same period, from 21.6% to 26.9%. The system only seems to function through myriad exemptions and reliefs that continue to grow as an overall proportion of the total amount paid in business rates. The use of these sticking plasters underlines the need for more regular revaluations”.

You talked about the poundage rate being at a 20-year high. It seems bizarre that we have rates relief at a record high and a poundage rate that is at its highest level for 20 years. Would a better way to address the issue be to have fewer reliefs

and lower overall poundage? If so, which reliefs should be removed?

David Lonsdale: One aspect of the bill is that of putting the business growth accelerator on a strategic footing. Our colleagues down south have picked that up and are saying that there should be something similar in England, but it should be over a three-year period to allow firms to recoup the cost of commercial property investments and so on.

We fully accept that there will be rates discounts and reliefs, but the broader principles of having more regular revaluations and keeping down the overall poundage or tax rate are a sensible starting point for looking at these things.

There will be cases for which there must be reliefs. Stuart Mackinnon talked earlier about there being a review of the small business bonus scheme. We have been supportive of the scheme, but it is right and proper that we look at individual reliefs from time to time and check whether their rationale is still pertinent and whether they deliver value for money. The Barclay review, which we have been broadly supportive of, did that.

Kenneth Gibson: It almost seems as though the poundage rate is being increased to take account of the number of reliefs. What do other panel members think?

Stuart Mackinnon: The FSB strongly supports the small business bonus and the help that it gives smaller firms. The most recent survey work that we did on it suggested that, if the scheme were abolished, about a fifth of the recipients would amend their growth plans, a fifth would cancel planned investments and a fifth would close their doors completely. Going into the small business bonus review, we will stand up for our members who currently get that important help from the Scottish Government.

I note that a small number of our members pay the large business supplement, and some work might be required to ensure that small and medium-sized firms do not accidentally fall into that tax bracket.

We have tried to be as constructive as possible and we have talked about tweaking the small business bonus. For instance, we have suggested that it should not apply to empty properties. We want to ensure that it goes to the right businesses, and we will continue to take that approach.

11:00

Marc Crothall: Many of our members are small businesses. We support the review of the scheme but, as you will have seen in my written submission, we have caveated that quite heavily by saying that we need to recognise the

importance of tourism businesses in communities and what they do for the wider economy. The other side of the coin to consider is that we have long argued that for many properties in the hospitality sector a rateable value of £51,000 does not mean that the businesses in those properties are large—they tend not to operate at that scale. Perhaps we need to look at the scale across the valuation measures. Overall, to go back to what has been said several times, the frequency of the revaluation process will, we hope, mean that the sort of increments that we have seen are not required.

On the small business bonus scheme review, there needs to be fairness across the approach. The review is timely. Are the incremental increases in poundage funding the small business bonus scheme? Arguably. To what extent would changing that make a significant difference? The review is justifiable.

Kenneth Gibson: My next question is for Rachel Blair, so I will ask it and then she can perhaps answer it and the question that I have already asked. You said at the beginning of your evidence that there are 900 charity shops in Scotland, and that about a third have, in effect, 100 per cent relief. How many of the remaining 600 get support from the Scottish small business bonus scheme? Do you know what the average is for the rates that those shops pay?

Rachel Blair: I do not have the exact figure, but I can try to get it and send it to the committee after the meeting. Rates relief is essential to the vitality and viability of the charity retail sector. The sector provides economic, social and environmental benefits, so the relief is cost effective for the taxpayer. The Scottish Government's business rates review in 2012 showed that charity shop rates relief cost £9.3 million, which equated to only 1.7 per cent of the total business rates relief applied. I am not sure how the small business bonus fits into that but, ultimately, we would say that rates relief is vital to us.

Kenneth Gibson: You talked about town centre footfall increasing because of charity shops, which is undoubtedly true. The FSB and others might argue that charity shops that are run by volunteers and that get 80 or 100 per cent relief are providing unfair competition to some businesses. Has the FSB or the charity sector done any assessment of that?

Rachel Blair: We would say that charity shops are not in competition with other high street players; they are partners. Our shoppers want variety on the high street, which is what charity shops provide. We should also look at the environmental benefits that charity shops provide. They can play a role in developing a circular economy and allowing consumers to look at more

ethical ways of shopping. It is important that we do not see charity shops as enemies or competition; they are just another partner on the high street.

Kenneth Gibson: Is that the view of the FSB?

Stuart Mackinnon: Broadly, yes. Charity shops have a role in our high streets and town centres; on the other hand, there is no doubt that a high street where there are a huge number of charity shops feels like a symptom of a place that is in decline. The way that we fix that is by having more organisations competing for the units on the high street. It is about getting other players rather than just independent businesses and charity shops. We need to get big business and the public sector back into the centre of our towns to take the spaces that independent shops and charity shops are trying to fill at present.

Kenneth Gibson: When the committee visited Kilmarnock, we were informed that some providers of retail space have allowed charity shops to move in rent free, simply because they cannot get other businesses in, and those shops add something to the high street. Would you broadly agree with that? In her submission, Rachel Blair said:

“As a result of charity retail, 330,000 tonnes of textiles ... were kept out of landfill, reducing ... carbon emissions by ... 7 million tonnes”.

Therefore, there are other benefits. Do you acknowledge that charity shops fill up spaces that would otherwise be empty?

David Lonsdale: The retail industry is changing and will continue to evolve. If you or I were a landlord—you may be, when you do not have your political hat on—it would be very understandable for us to look to others to take on the space. If that adds to the footfall in a high street or a town centre, that is great.

However, the fact is that public policy in the round—at Scottish and UK levels—is pushing up the cost of having a store footprint, whether it is the cost of the premises or of employing people. We are in an era of profound change. Growth in consumer spending is weak and costs are rising, so something has to give. As I said, the number of shops has decreased.

I am conscious of the time, and I know that you will seek to wrap up soon, convener, but what I have just said links to what you said at the outset about your trip to Kilmarnock. You met firms that were concerned about the cliff edge, as you put it, in relation to rates relief for small firms. There is also a cliff edge of sorts when it comes to the large business rates supplement. As soon as you go above a rateable value of £51,000, because it is a slab tax, you pay rates on every pound, from zero right up. That is another issue. As Stuart Mackinnon said, and as Ken Barclay said in his report, that tax applies to many small and medium-

sized businesses. The name is a bit of a misnomer, because the supplement does not apply only to large organisations.

Kenneth Gibson: To be fair, we heard from a company in Kilmarnock that was directly affected by that. It wanted to stay in the town and employ an additional number of people, but it felt that it was unable to take the risk because of the lack of tapering in the slab.

The Convener: If only you had been paying attention earlier, Kenny, you would know that I brought that up.

Kenneth Gibson: I know that, but David Lonsdale specifically mentioned the issue, and it was part of my questioning.

The Convener: Okay. That completes our questioning. I thank the panel for attending today's session. I suspend the meeting to allow for a change of witnesses.

11:07

Meeting suspended.

11:09

On resuming—

The Convener: We continue today's session on the Non-Domestic Rates (Scotland) Bill, and I welcome Ken Barclay, the former chair of the Barclay review of business rates. I appreciate that there was a late change to the agenda, given that Mr Barclay's attendance was confirmed only yesterday. We are really grateful to Mr Barclay for attending today's meeting.

We move straight to questions. I ask Andy Wightman to kick off the questioning.

Andy Wightman: Thanks very much for coming along at short notice, Mr Barclay.

Broadly speaking, do you feel that the recommendations of your review group have been put into practice through the non-legislative measures that the Government has announced, and through the primary legislation that it has introduced in the bill?

Ken Barclay: I am not sure that I am in a position to respond to that. Over 14 months, we consulted many people and determined what we thought was in the best interests of the brief that we were given by the Scottish ministers. I have not been involved in the process for the past two years. It is up to the Scottish ministers to determine how many or how few of the recommendations that we made are brought to bear, and how much is done through primary legislation.

Andy Wightman: Fair enough. The Government decided not to take forward two of the group's recommendations, one of which was recommendation 28, which said:

"All property should be entered on the valuation roll".

Currently, agricultural land, foreign military bases and embassies are excluded. I presume that you still think that the recommendation is a good idea, but the Government is not taking it forward. Do you have any thoughts on that?

Ken Barclay: At the time, the panel felt that it was important that all property be put on the register. That was certainly the view of the review group. That would allow the public to see the extent to which public subsidies are given to certain elements of industry that we highlighted. It is entirely for the Government to decide whether it wants to pursue the recommendation.

Andy Wightman: The other recommendation that the Government has decided not to take forward relates to large-scale commercial processing on agricultural land. I am not asking you to name individual businesses, but what kind of examples did you look at to come up with the recommendation?

Ken Barclay: An example is that an abattoir that was on agricultural land would be exempt from paying tax, but an abattoir that was on a brownfield site would be subject to tax. In order to level the playing field, we felt that it was appropriate to make that recommendation in our paper.

Andy Wightman: Would the same situation arise with, for example, ice cream factories or biscuit-making factories?

Ken Barclay: If agricultural land was being used for that purpose, the answer to the question would be yes.

Andy Wightman: You provided formal recommendations, but you also considered other issues. Annexe C.7 in the review report is interesting. It is entitled:

"Ensuring that every ratepayer pays something",

but you do not go into what the "something" should be. Will you elaborate on the principle behind that thought?

Ken Barclay: It came about as a consequence of many small businesses that we spoke to feeling that there is a disconnect in the understanding of what non-domestic rates are for. The rates contribute to provision of local services. When I was on the road, someone said to me that some high streets have become rates deserts—basically, no one on the streets pays any non-domestic rates.

Many of the small businesses that we spoke to said that they would be prepared to pay something towards the local services that they were, in effect, in receipt of, but we did not get to the point of determining the level that people would be comfortable paying. One of the challenges that we found was determining what a reasonable amount would be and determining the costs of collection. If the costs of collection were to outweigh the amount that was collected, that would clearly be a false economy. Ultimately, we felt that we could not make a recommendation to ministers on that issue.

11:15

Andy Wightman: Were you not able to recommend that because you could not reach a resolution of the cost benefit analysis rather than because the principle was in doubt?

Ken Barclay: We were unable to determine whether the cost benefit analysis made any sense. That is why we ultimately decided that it was important that the overarching review of the small business relief scheme was a far more important way to go about things.

The Convener: I think that you were in the room when the previous witnesses talked about your call for the large business supplement to be brought into line with that in England. What was your rationale for that?

Ken Barclay: Our view was that it was important that Scotland was seen to be the best place to do business in. That had been expressed by ministers, and one way in which we could recommend that that could be done was by reducing the large business supplement to the same level as that in England.

The Convener: The review was a while ago. In the time that has passed since, have you taken a view on whether developments in local taxation and the economic context have led to a need for further non-domestic rates reform?

Ken Barclay: All that I can say to that question is that I stand by the recommendations that I made in 2017. I have not been involved in rates in any way professionally or privately since then, and I discharged my duties to the best of my ability.

The Convener: Do you have a view on the Government's approach to implementing relief for day nurseries and the perceived unfairness in non-profit nurseries that are co-located on school grounds still paying rates?

Ken Barclay: I am afraid that I do not, convener. I am not able to respond to that question.

The Convener: Right. That is not an issue at all.

Alex Rowley: The previous panel talked about dealing with the whole process and the user-friendliness or otherwise of the system. As I said to that panel, as an MSP, when I have been trying to help small businesses in particular, I have found contacting the council and just understanding things to be quite difficult. Do you have a view on that? The previous panel seemed to suggest that there could be a better dialogue if an improvement service and customer relations were put in.

Ken Barclay: We felt that a number of things could be improved, and we highlighted them in the report. I understood that some of those things are now in a consultation process involving the end users and the assessors. I am afraid that I really cannot add more than that, Mr Rowley.

The Convener: Graham Simpson has questions about schools.

Graham Simpson: I, too, thank Mr Barclay for coming to the meeting. I know that your attendance was confirmed at the very last minute, and I really appreciate your being here.

The committee has looked at the idea of removing rates relief for independent schools. That stemmed from one of your recommendations—it was your idea. Where did it come from?

Ken Barclay: The idea stemmed from the fact that we adopted the guiding principles of transparency and fairness and ensuring that people are on a level playing field with one another. It was quite apparent to us that, as state schools pay rates, it is entirely appropriate that independent schools should do so, too.

I can anticipate the next question: perhaps the state or public sector should not pay rates? We spent a considerable time with people from the public sector—from the health service, the Scottish Prison Service, Scottish Water and the enterprise agencies—and asked them whether the public sector should pay rates, because that is a fundamental point. People argued that, effectively, that just represented money going around in circles. For context, we are talking about 15 per cent of the total rates bill, or £1 billion at the time that we presented our report to ministers.

When we spoke to the Scottish Prison Service, it said that it did not think that it was appropriate for it to pay rates. The conversation evolved into an acknowledgment of the fact that there are private prisons that are in competition with state prisons, and that private prisons pay rates. The SPS accepted that it is therefore appropriate that it should also pay rates, so that there could be a level playing field, which was one of the principles

that we adopted at the outset. Likewise, the enterprise agencies that we spoke to said that it would be entirely inappropriate for them not to pay rates, given that they are talking to businesses that pay rates. When we spoke to Scottish Water, it said that, to all intents and purposes, it is treated like a private company, albeit one that is in state ownership, which means that it is entirely appropriate that it should pay rates. Similarly, the health service recognises that it is in competition with private hospitals, that private hospitals pay rates and that the health service should pay rates.

That brings us back to the point that I mentioned at the outset about whether schools should pay rates. The answer is that, if you are treating everyone equally, it is entirely appropriate that independent schools should also pay non-domestic rates, because state schools do.

Graham Simpson: Right, except for the fact that independent schools are classed as charities. If we are to be consistent across the charity sector, we should not discriminate between one part of the charity sector—which I note represents only 0.5 per cent of that sector—and the rest of it. However, that is the upshot of the proposal. The Office of the Scottish Charity Regulator told us that that would create a two-tier charity sector. Do you accept that? If so, do you accept that that has implications for charity law?

Ken Barclay: All that I can do is reiterate what I said earlier, which is that it is for ministers to make their recommendations and decide what is appropriate to put into primary legislation. I think that I have fulfilled my duties in making the recommendation; it is for ministers to determine whether they want to proceed with it.

Graham Simpson: It is, but the idea came from you and your review. Do you accept that if your recommendation becomes law, it will create a two-tier charity sector?

Ken Barclay: I am not convinced of that. We considered the issue on the basis of fairness, and we felt that it was appropriate to level the playing field between the state sector and the private sector.

The Convener: If independent schools did not pay rates, would that not create a two-tier education system or a two-tier rates system?

Ken Barclay: I am sorry; could you clarify that point?

The Convener: Independent schools do not pay rates, so does that not, in itself, create unfairness in the education system or the rates system?

Ken Barclay: That is my point. I was trying to level the playing field between the state sector and the private sector, and that is the recommendation that we made. You could argue that there is an

uneven playing field at the present time, and I was endeavouring to level it.

Graham Simpson: I would like to continue my line of questioning, if that is okay.

Given that the proposal has big implications for the charity sector and potentially for charity law, I presume that you spoke to the charity regulator, OSCR. Is that correct?

Ken Barclay: At the outset of the process, we invited OSCR to comment. As far as I can recall, I do not think that it replied

Graham Simpson: You had witnesses appear before you. Did you invite OSCR to come to see you?

Ken Barclay: We invited OSCR by email to submit a proposal to us. However, when we were seeking evidence from multiple individuals and organisations at the outset of the process, in 2016, OSCR did not respond.

Graham Simpson: I accept that you will not have heard the evidence that we have heard from some players in the independent school sector who say that they are on the brink. They are struggling. If the change is introduced, it could push them over the edge and we could see schools closing. Given that—I am sure that that is not what you want to happen—and with the benefit of hindsight, would you change your mind on that recommendation?

Ken Barclay: I am afraid that I can only respond to the basis on which I was instructed to give my brief. It is entirely inappropriate to ask what I think now in relation to changes that have taken place. My responsibility was to submit that report to ministers by the late summer of 2017, and I did so. If my opinion has changed in the intervening period, as a result of changes that have taken place in the wider economy—where multiple changes have taken place—it is not my place to come back and suggest that alternative arrangements should be made.

Graham Simpson: You must have an opinion. As a result of something that you have recommended, schools could potentially close. You must have view on that.

Ken Barclay: I am not going to be drawn into something that I think is inappropriate. I have made my point very clear. It was entirely appropriate for me to make my opinions known at the time. It is up to Government to take account of any changes that have taken place in the intervening period.

Graham Simpson: Let me put it this way: school closures would not be what you were trying to achieve.

The Convener: I think that we have finished with that line of questioning. Mr Barclay has made it clear that he is speaking as the head of the review.

Andy Wightman: Following on from that, I am curious as to how you approached the schools issue. You said that your aim was to level the playing field, and I notice that you agreed at the outset to embed as far as possible principles of fairness, consistency, transparency, simplicity and accountability. Presumably, levelling the playing field comes under the heading of fairness.

Ken Barclay: I am not sure that I allocated a principle to every recommendation.

Andy Wightman: No, but the recommendation was about levelling the playing field. Were you looking across the whole rating system to see where there could be uneven playing fields, as it were—between similar properties in the same sector, for example—or did independent schools arise as a specific issue? Did someone suggest that they should pay rates, or were you looking at all the different reliefs to see how much money could be generated by changing them? How did you arrive at considering the question?

Ken Barclay: I cannot remember whether there was a specific moment when it was felt that levelling the playing field was an appropriate basis on which to put the issue on the table, as it were. Although we were aware of all the available reliefs, we did not start to reverse-engineer solutions into wherever the largest reliefs were. It was a question of what facts were available to us. It was a simple matter of asking whether it was fair. Is it fair that independent schools and state schools are treated differently on the payment of non-domestic rates? We concluded that they should be treated the same, and therefore we made that recommendation to Mr Mackay.

Andy Wightman: I put it to you that your remit included the instruction that your recommendations should be revenue neutral, broadly speaking. Some of your key recommendations that were designed to boost economic activity involved a reduction in rates liability, which would therefore lead to a reduction in income, so you had to find some money to make up that reduction to ensure revenue neutrality. If I put it to you that you looked at all the existing reliefs to find out whether they were capable of being tweaked, abolished or partly abolished, would that be a fair characterisation?

Ken Barclay: I think that that is a reasonable characterisation of the process that we went through. We looked at all reliefs and had to determine whether they were providing an appropriate level of economic stimulus or whether they were fair.

11:30

Andy Wightman: Would it also be fair to say that you did not go into huge detail in your examination of the reliefs, presumably given the amount of work that that would have involved? For example, with the small business bonus scheme, you decided that, rather than tinker with it, you would recommend that it should be reviewed.

Ken Barclay: It depends on what you mean by “huge”. It might help if you could give me an example, so that I can respond to a specific question rather than a generalisation.

Andy Wightman: Take the empty property relief, for example. Did you gather a wide range of evidence, analyse the numbers and look at the relief over time? In other words, did you do all the analytical work that would be required to evaluate whether it was still a justified relief?

Ken Barclay: That is a fair point. In addition to the report that you have no doubt seen and read, a plethora of information is publicly available. There are reams of reports that you can review to establish what work has been undertaken.

It would be fair to say that we looked back to establish some facts, but we were not reviewing something over a long period; at 14 to 15 months, the review period was relatively short. Some of the other recommendations that we felt that we could have made but did not—they are at the back of the report—would undoubtedly fall into the category of requiring significantly longer to determine. For example, we could not possibly have come up with a fully blown recommendation to change the fundamentals of non-domestic rates to a land value tax in the timeframe that we had available. That is because that would need to be looked at alongside council tax, for example. Coming to a conclusion on crossover issues such as that—many of which we have mentioned in the annexes of our report—would clearly have required significantly longer.

Alex Rowley: In some ways, given the challenges, the bill should not be seen as the end of the process. I do not know whether you looked at town centre retailers versus out-of-town retailers. Is there anything in the non-domestic rates system that could assist? The previous panel talked about the powers that local authorities have to exempt areas in town centres, but that, of course, costs money and they do not have that money. Can the rates system, or some form of taxation, help town centres?

Ken Barclay: We recommended the expansion of the fresh start relief, the purpose of which is to encourage the use of empty properties in town centres. My recollection is that Derek Mackay adopted our recommendation—in fact, I believe that he may well have gone further than we did.

We might well have gone further with our recommendation at the time, but we were not in a position to do so, because that would have cost us more money than we had available from the changes that we were making. I think that our recommendation on the fresh start relief is a very good example of where we were endeavouring to find ways of occupying empty premises, particularly in town centres.

Alex Rowley: When the Convention of Scottish Local Authorities gave evidence to the committee, it was keen to stress that there is a review looking at council tax, which was announced by the finance secretary. Although this bill is going through at the moment, do we need to look again at this? Should non-domestic rates be looked at as part of a wider review?

Ken Barclay: A decision to look at devolved taxes in the round would clearly be one for the Government of the day. It is certainly not my position to give a view on whether a further review of non-domestic rates needs to be undertaken.

Alex Rowley: You made a recommendation on arm's-length external organisations. I return to your earlier point about the principle of fairness. I will not ask whether it is right for ministers to pick and choose what is fair. However, my understanding is that the main reason why the Government did not proceed with that recommendation is that its impact on local authority budgets would have been devastating. What is your take on that?

Ken Barclay: Are you asking why we made the recommendation?

Alex Rowley: Yes.

Ken Barclay: I think that I can best capture that by referring to what is, admittedly, an anecdote. I will come to the facts in a moment, if I remember. We held an evidence session that was attended by the deputy leader of a fairly significant council. She was very clear in saying that the only reason why the council puts those public assets into ALEOs is to reduce the tax rate that is payable on them. Otherwise, it would not do so. To my mind, there was an opportunity for us to look at the current situation and ask whether it is fair. We concluded that it needed to be addressed, and we made recommendations to ministers.

I go back to the facts. One of the charts in the report—I am afraid that I cannot remember the exact paragraph; if I had been able to go through the report several times in the time that I had available, I would remember it—shows that charitable relief has increased. We charted the amount of relief that had been made available in the various categories over several years, and far and away the biggest category was charitable relief. It is not the kind of charitable relief that

Rachel Blair spoke about; it is relief that is going to ALEOs. A considerable amount of assets were moved from local authorities into ALEOs over a relatively short number of years, and we felt that that was not appropriate and needed to be addressed.

Alexander Stewart: I will pick up on the schools issue and then move on to something else. I understand and acknowledge why you chose to make the recommendations that you did. You talked about fairness and how to ensure that there is equity across the piece between the independent sector and the state sector. During all your work, how much analysis did you undertake of the potential knock-on effects on the state sector if some private schools were to close? As my colleague Graham Simpson indicated, the change may have an effect on the viability of some independent schools.

Ken Barclay: I did not think that it was appropriate for us to do an analysis of individual independent schools to determine whether the impact of the change was going to have such a devastating effect. It is probably worth while for me to give some context. At the time of writing the report, there were approximately 35,000 pupils at independent schools in Scotland. Our assessment from the work that was done—which, again, is publicly available in the archive—was that the change would bring in around £5 million. That equates to approximately £150 per pupil per annum in addition to the fees that are payable. The average fees in Scotland are approximately £12,000 a year, so it is 1.25 per cent over and above what is currently paid. That context was enough for us to say that the impact should not be enough to make schools unable to pass on the fee or absorb some of it themselves.

Alexander Stewart: Some locations in particular may be affected. Edinburgh, for example, has a much larger percentage of private and independent schools, so there would be a bigger potential burden on the local authority there if things did not work out in the private sector. That would also apply to Perth and Kinross, which also has a larger private sector. Did you look at that when you were looking at matters in the round?

Ken Barclay: I think that I have explained what we looked at. If further analysis was needed following our recommendations, I believe that it would ultimately have been for ministers to determine what was appropriate.

Alexander Stewart: I will move on to another subject with regard to your recommendations. As we have gone through this process, some people have talked in their submissions about additional burdens that may well fall on local authorities and on the assessors. Was that your intention? Did you envisage that by making some of those

recommendations, you would be adding extra burdens, such as pushing on local authorities a requirement for information?

Ken Barclay: We made 30 recommendations. Some of them include a quantifiable amount that either involves a cost to or a relief for the taxpayer. Many of our administrative recommendations are exactly that—administrative. We make a comment that says that, although the impact is not material, we recognise that there will be additional administrative burdens placed on either the assessors or the local authorities to ensure that the recommendation is implemented.

Kenneth Gibson: Good morning, Mr Barclay. Following on from what we heard from the previous panel, I am interested in the issue of charitable rate relief for charity shops. What was the thinking behind your decision to retain the level at 80 per cent and not either put it up to 100 per cent or drop it to 60 or even 50 per cent? You would have heard the evidence of those who had enthusiasm for it being 100 per cent. Why did you feel that 80 per cent was the right figure?

Ken Barclay: As I recall, central Government agreed that it would subsidise down to the level of 80 per cent and it would then be up to the local authority to decide whether the additional 20 per cent would be given. As far as I was concerned, that was okay. We concluded that that was a perfectly legitimate rate to alleviate the charity shops' position, so we recommended that there be no change.

Kenneth Gibson: You did not feel that there was a strong enough argument for going to 100 per cent relief, for example.

Ken Barclay: We spoke to the charity shops in an evidence session and they put forward their point of view, but we decided that the status quo was entirely appropriate.

Kenneth Gibson: Why was that your conclusion? On the previous panel, Rachel Blair, speaking on behalf of the sector, said that that meant that some local charity shops struggled to pay rates even at 20 per cent where the council does not provide relief.

Ken Barclay: To be honest, Mr Gibson, I am struggling to remember the reason for our determining that 80 per cent and not 100 per cent was the right figure. If you will forgive me, it might be appropriate for me to respond to that formally, through Mr Dornan as convener, to clarify our thinking.

Kenneth Gibson: That would be helpful.

Ken Barclay: It happened two years ago and I have now forgotten the exact details.

Kenneth Gibson: I fully understand. Thank you very much.

Annabelle Ewing: Good morning, Mr Barclay. I have two relatively quick questions. One is about an issue that was raised in the Scottish Retail Consortium's written submission to the committee but was not discussed today. Given your expertise, I thought that it might be in order to pose the question. The consortium talked about the deposit return scheme and the consequent need for shops to have refits and possibly to purchase reverse vending machines. It said that it was

"concerned these ... changes could be classed as improvements and consequently affect the rateable value of ... premises".

In broad-brush terms, is that a realistic concern, or does it overegg the situation?

Ken Barclay: I am not sure that I know the answer to that question, to be honest. The commission recommended that the Government review plant and machinery in considerable detail. I do not know whether anything has happened on that, but we felt that the issue of improvements was very complex and that expertise to determine the right way forward did not exist in our group. The last time a review of plant and machinery issues took place, it took the Government two or three years to reach the conclusions and recommendations that it did, so I did not think it appropriate for us to try to cram such an exercise into the time that we had available. That is why we made that recommendation. If the Government should decide that it wants to pursue that process, it seems entirely appropriate that the example that you have given should be included in the plant and machinery review for all businesses.

Annabelle Ewing: Thank you for that—it was very interesting.

My last question is about timescales. We have had your report with your recommendations and we are now going through the bill. I imagine that there might be some tweaks to the legislation—as is ever the case with the parliamentary process, as our aim is to achieve the best version of it that we can—and then it will be passed. How long will it be before we need to have a Barclay 2 review?

Ken Barclay: Taking your question in the spirit in which it was intended, I trust that it will not be Barclay at all. [*Laughter.*]

Annabelle Ewing: Thank you.

Graham Simpson: I want to go back to the issue of schools. In your review, you used the word "fairness" quite a lot. One of your recommendations, which I think became part of the bill, is that some independent schools, such as music schools, should retain relief. Why should that be the case for some schools and not others?

Why should the relief not apply to schools that specialise in sport or science, for example?

Ken Barclay: That might be a question for the Government, Mr Simpson. I do not remember identifying a music school—or the only independent music school in Scotland—as deserving particularly different treatment. That might be something that you could ask the ministers when they speak to the committee.

Graham Simpson: Does it pass your fairness test?

Ken Barclay: I reiterate what I have just said. I made my recommendations to the Government at the time. Whatever it has decided to do or change in the intervening period is a matter for it. My brief was to deliver the review within 14 months, which I did. I am here today to answer questions about the recommendations that I made rather than about the opinions of others that have been expressed subsequently.

The Convener: Thank you very much for attending today's session, Mr Barclay. Your evidence was very helpful indeed.

A further evidence session on the bill will take place at the committee's next meeting on 4 September, when we will hear from representatives of the Scottish Government.

I now suspend the meeting briefly, to allow the witness to leave the table.

11:45

Meeting suspended.

11:47

On resuming—

Subordinate Legislation

Private Landlord Registration (Information) (Scotland) Regulations 2019 (SSI 2019/195)

Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Amendment Regulations 2019 (SSI 2019/204)

The Convener: Item 3 is consideration of two Scottish statutory instruments. I refer members to paper 3, which contains further details. The instruments have been laid under the negative procedure, which means that their provisions will come into force unless Parliament agrees to a motion to annul them. No such motion has been lodged. The Delegated Powers and Law Reform Committee considered SSI 2019/195 at its meeting on 18 June 2019 and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

The DPLR Committee considered SSI 2019/204 at the same meeting and reported that it does not respect the rule that at least 28 days should elapse between the laying of a negative instrument and its coming into force. The committee considered that to be acceptable in the circumstances, given that the instrument largely provides for corrective action in response to minor errors in the Local Government Pension Scheme (Miscellaneous Amendments) Regulations 2019 (SSI 2019/161), which had previously been considered by the Local Government and Communities Committee. The DPLR Committee noted that the corrective instrument that is before us today will allow the associated regulations to come into force on the intended date of 20 June 2019.

As no members have any comments on the instrument, I invite the committee to agree that it does not wish to make any recommendations in relation to the instruments.

Members indicated agreement.

The Convener: Thank you. That ends the public part of the meeting and we will now move into private session.

11:48

Meeting continued in private until 12:17.

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