OFFICIAL REPORT
AITHISG OIFIGEIL

Public Audit Committee

Thursday 30 May 2024

The Scottish Parliament
Pàrlamaid na h-Alba

Session 6

Thursday 30 May 2024

CONTENTS

PUBLIC AUDIT COMMITTEE
17th Meeting 2024, Session 6

CONVENER

*Richard Leonard (Central Scotland) (Lab)

DEPUTY CONVENER

*Jamie Greene (West Scotland) (Con)

COMMITTEE MEMBERS

*Colin Beattie (Midlothian North and Musselburgh) (SNP)
*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
*Graham Simpson (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Colin Cook (Scottish Government)
Gregor Irwin (Scottish Government)
Dermot Rhatigan (Scottish Government)

CLERK TO THE COMMITTEE

Lynn Russell

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Public Audit Committee

Thursday 30 May 2024

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Richard Leonard): Good morning. I welcome everyone to this, the 17th meeting of the Public Audit Committee in 2024. The first item for the committee's consideration is whether to take agenda items 3 and 4 in private. Are we agreed?

Members *indicated agreement.*

Scottish Government Strategic Commercial Assets Division

09:00

The Convener: Our principal item of business this morning is to consider the Scottish Government's approach to financial interventions, and in particular to inquire into the operations of the Government's strategic commercial assets division. I am pleased that the following witnesses are joining us this morning to help to illuminate that question and to answer others that we might have.

I am very pleased to welcome Gregor Irwin, the director general of economy at the Scottish Government. Alongside Mr Irwin is Colin Cook, who is the Scottish Government's director of economic development, and Dermot Rhatigan, who is the deputy director of the strategic commercial assets division.

As I have said, director general, we have some questions to put to you. Before we get to those, however, I invite you to make an opening statement.

Gregor Irwin (Scottish Government): Thank you for this opportunity to give evidence to your committee on the strategic commercial assets division. As you have already noted, I am joined today by Colin Cook, who is the director for economic development. Colin oversaw the creation of the division. I am also joined by Dermot Rhatigan, who has been leading the division since the start of this year.

The creation of the strategic commercial assets division was an important step in our work to provide the right capacity and commercial expertise to manage the Government's strategic commercial assets effectively, as well as managing a portfolio of interventions in which ministers have a stake.

The division also co-ordinates the Government's response to companies that are in distress. It does that in close collaboration with the enterprise agencies and with policy officials who are responsible for individual sectors. The division is a cornerstone of the assurance system and collaborates with finance, legal and subsidy control experts to assemble robust evidence and advice throughout the life cycle of any commercial intervention.

As accountable officer for the Scottish Government's strategic commercial assets, I take a significant interest in their management, as you would expect, as well as being directly involved in key decisions and advice to ministers on those assets. I also chair the strategic assets review group, which provides internal challenge, assurance and guidance to the officials who lead on our interventions. We work closely with Audit Scotland to improve our processes and our frameworks, and we regularly take its advice.

I supplied to the committee before today some material that summarises the work and structure of the division, which I hope was helpful. We look forward to taking your questions.

The Convener: Thank you very much, director general. I begin with the briefing note that you sent to us in advance. It includes an organogram featuring people's job titles and so on. How many people work in the strategic commercial assets division?

Gregor Irwin: I ask Dermot to give a quick answer to that question.

Dermot Rhatigan (Scottish Government): We have around 40 people at the moment. The number flexes a little bit, with people coming in and out regularly, but it is around that.

The Convener: Where is the division located?

Gregor Irwin: It is part of the directorate for economic development.

The Convener: And the venue of that is?

Gregor Irwin: It is spread between Atlantic Quay in Glasgow and St Andrew's house in Edinburgh.

The Convener: So, the staff are not all together in one office.

Gregor Irwin: No.

The Convener: How much is the budget for the strategic commercial assets division?

Gregor Irwin: Do you have that figure to hand, Dermot?

Dermot Rhatigan: If you mean the salaries of the staff, I do not have that exactly to hand, but we also have money that comes into the division that we use for procuring specialist commercial advice, and money flows through the division that goes to the businesses that we are working with—in particular, Ferguson Marine (Port Glasgow) Ltd.

Gregor Irwin: Convener, we can write to you with the precise total operating cost of the division, if that would be helpful.

The Convener: Okay. Would it be right to say that the division does not have a stand-alone budget, for example?

Gregor Irwin: The division does not have a stand-alone total operating cost budget. Colin Cook's directorate has, and the division is part of that directorate, but we can identify a figure for the division's total operating cost, if that would be helpful.

The Convener: Okay.

Mr Rhatigan, you mentioned procuring expertise and so on. I noticed that one of the functions of the operations and asset management unit is to procure the services of commercial advisers. Those are consultants, presumably. How much money has been spent in the past 12 months on consultants?

Dermot Rhatigan: In the year 2023-24, we spent £1.6 million on commercial advisers.

The Convener: Was that all in connection with Ferguson Marine, or was it also in connection with other ventures?

Dermot Rhatigan: It was not just in connection with Ferguson Marine. We retain advisers that support us on the Lochaber guarantee and advisers that support us in thinking about the future of the Glasgow Prestwick Airport Ltd asset. We have advisers on Ferguson, too, who are thinking primarily about the future of the business. From time to time, we retain technical advisers on such things as shipbuilding matters. A range of things come together to get to that total.

The Convener: You mentioned the expenditure for the year 2023-24. What was the expenditure in 2022-23? Is expenditure going up or down, or is it staying more or less the same?

Dermot Rhatigan: I do not have that figure to hand today, having joined the division only in January this year. However, we can certainly get it to you.

The Convener: How do you measure whether the consultants are performing well or not?

Gregor Irwin: We are careful to use consultants in the right circumstances. We are conscious of the capabilities that we have within the division and elsewhere in the Scottish Government. We work closely with experts in the legal advisers team, subsidy control and elsewhere. Our first port of call is internal sources of expertise. We draw on external commercial, legal or technical advisers when we think that gaps in capability need to be filled for a specific purpose, for projects that are important and that demand that type of attention. We do everything that we can to ensure that costs are kept under control.

In some circumstances, independent external advice is very important, such as in due diligence. Quite often, we can do initial due diligence internally but, if we are to rigorously test a piece of analysis or a set of forecasts, for example, there is an important role for independent external advice.

In some circumstances, we operate in an environment in which legal questions need testing, so sometimes independent legal advice is important.

The Convener: The committee has previously considered due diligence on Ferguson Marine over the situation with the construction of vessel 802. You outsourced to Teneo the report on that. You will, of course, be aware that it has been of recurring concern to the committee that that report was covered by a non-disclosure agreement—at the instance of Teneo, I think. The committee has a broader concern about the extent to which your reliance on external consultants means that there is no public scrutiny of the work that they do, which is paid for by the public purse.

Gregor Irwin: We use non-disclosure agreements with companies rather than individuals. In almost all circumstances, I think—my colleagues can confirm it—that that happens at the onset of a project, so that we ensure that any information that is shared at that stage remains confidential.

The Teneo report was a piece of commercial due diligence on Ferguson Marine's underlying cost structure and productivity, elements of which were commercially sensitive. We understand, and want to support in the best way possible, the committee's need to ensure that there is transparency in all circumstances. However, we are aware that there is a tension between that objective and preserving commercially sensitive information that is important for Ferguson Marine's competitiveness and, therefore, for its sustainability as a business. We are always reviewing whether we get that balance right. In fact, as I believe the permanent secretary wrote to the committee, we are also reviewing our approach to transparency more generally, to test it and ensure that we are getting it right.

The Convener: Later in our session we might get further into that perceived tension between the commercial interests of FMPG's board and its responsibility to be accountable through the Scottish public finance manual—not least because, at the last count, £0.25 billion of public money had been put into the company.

I will move on and ask you something else. When we asked the Auditor General to review what the strategic commercial assets division was, he said that it exists to increase capacity to respond to cases that arise that are seeking support. When I questioned you back in January, Mr Irwin, you said that it was about the commercial expertise that is required to manage strategic assets effectively. The instance that I raised with you at that time was the Grangemouth refinery. I asked whether you considered that to be a strategic commercial asset. That was the point at which you said that the job of the assets division is to manage existing assets. Will you explain a little more about how proactive or reactive the division is, what it does to horizon scan, and so on?

Gregor Irwin: There was quite a lot in that question. As the letter that I sent to the committee before today's meeting sets out, the division fulfils a number of functions. Those begin with horizon scanning and developing market intelligence and understanding about businesses that are potentially in distress. It works with the enterprise agencies on ensuring that if businesses in distress come to the Scottish Government, or to those agencies, we have in place a framework and an approach to ensure that ministers get the best possible advice in those circumstances. The division therefore has an important role in working with enterprise agencies, and potentially with relevant policy leads across Government. In the case of Grangemouth, those policy leads are in the director general for net zero's area, so we work closely with them.

The division has established a framework governing the whole life cycle of interventions, starting with the decision to intervene to provide support directly to businesses such as Ferguson's or Prestwick airport. As the committee will understand, part of that life cycle model involves placing intense focus on management of commercial assets, which takes up a considerable amount of Dermot Rhatigan's, Colin Cook's and my time, because of the importance of Prestwick and Ferguson Marine, and of managing our interests in Lochaber.

Those elements of managing interests—working through the sponsorship teams, ensuring that we have in place the right frameworks for good decision making and allocating resources when required—are all important. The last of those elements is about the end of the life cycle, when we look to ensure that there is a sustainable future for those businesses.

The presumption in the cases of Ferguson Marine and Glasgow Prestwick Airport Ltd is that we will return those assets to the private sector at the appropriate time. That requires a different skill set, and a different approach and framework. One of the division's achievements has been to develop those in quite a consistent and rigorous way, taking advice from Audit Scotland as and when appropriate.

09:15

The Convener: Okay. We will get into the divestment process a little later on.

I want to go back to the situation in Grangemouth. Do you have people in the strategic commercial assets division today, have you had people in it over the past month, or will you have people in it in the coming weeks who are actively involved in looking at an intervention around its future as an import terminal, which you mentioned when we previously took evidence on the matter, or its continuation as a refinery? It is the last refinery in Scotland, is it not?

Gregor Irwin: We have not been asked to intervene to support Grangemouth. Any request would have to satisfy the business investment framework, which is now part of the SPFM. Colleagues in the strategic commercial assets division have, of course, been very much involved with colleagues on the finance side and elsewhere to ensure that that framework is as robust as it can be.

One of the roles of the strategic commercial assets division is to ensure that we are always ready to apply the principles and the detail of the business investment framework in any circumstances in which we are called upon to do that. As I have said, the policy lead for Grangemouth lies with DG net zero, but we work closely with colleagues there. Our principal interest is in ensuring that, should there be any request of any sort, we have in place the capabilities, the expertise and the processes to deal with that in the appropriate way.

The Convener: Are you saying that the people who are employed in the strategic commercial assets division stand ready, but are currently not doing anything with regard to Grangemouth?

Colin Cook (Scottish Government): For clarity, we have people in the division who have supported our colleagues. As Gregor Irwin said, the lead comes from the net zero side of the business. We have people in the strategic commercial assets division who have supported them and given them advice, and we would stand ready should the decision be taken to do something to move an asset of any type through the life cycle that Gregor Irwin described.

The Convener: Okay. Finally from me, you have mentioned the expression “in distress” a couple of times. Could you define what you mean by “in distress”? How do you decide that a business is “in distress” and might require intervention?

Gregor Irwin: Dermot Rhatigan might be able to provide more of a technical definition of that. Typically, however, there might be one of two issues if a business is in distress. The business may be suffering from financial underperformance or liquidity problems, which means that it finds itself in circumstances that might lead to job losses or closure of part of the business, or of the business in its entirety. There is another slightly different set of circumstances. A business might have made a strategic decision to exit from a particular location or, potentially, entirely from Scotland.

In either circumstance, we might well find that the business comes to us. That is very often through the enterprise agencies, but we might come into contact with a business by other means. In those circumstances, one of the primary roles of the business briefing unit, which is part of Dermot Rhatigan’s division, is to ensure that we are able to brief our ministers and advise them on the business’s decision’s likely impact on jobs, the sector and the local economy, the reason for it—whether there is a cash-flow problem or it is a strategic decision—and what sort of support the business is receiving or might need to receive. That could come from the enterprise agencies or, in some circumstances, from partnership action for continuing employment—PACE—if there are job losses.

The Convener: Okay. Would you consider a strategic business that is important to the Scottish economy to be potentially in distress if it was the subject of a hostile takeover bid, for example?

Gregor Irwin: The policy framework around takeovers is a reserved matter. There is also a framework for considering any national security concerns around takeovers; that is also a reserved matter. I am not aware of any circumstances in which we have been called upon to participate in a process involving a company in those circumstances, but one of my colleagues might be able to say more.

Dermot Rhatigan: I am not aware of any situation in which a hostile takeover has precipitated our intervention. Our intervention has happened in the two ways that Gregor Irwin has just mentioned. It is either because the business is suffering in some way, and we have picked up the fact that it has liquidity issues, or, as is often the case, there has been a restructuring and the owners have decided that they no longer want to do part of the business and want to exit in some way.

That is how the Lochaber guarantee started; representatives of Rio Tinto got in touch with us and told us that they wanted to look at their operations in Lochaber. At first, the discussion with them was around the energy assets, which Rio Tinto wanted to get connected to the grid. As things evolved with Rio Tinto’s own strategic review, the company decided that it wanted to exit that business in Scotland, and its representatives spoke to us about that. However, that was not driven by distress; it was just that Rio Tinto had decided to focus more of its resources on upstream mining, with less focus on downstream production of aluminium.

The Convener: Thank you for that. I now invite Willie Coffey to put some questions to you.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Good morning, Gregor Irwin and colleagues. I want to ask about particular investments of the Scottish Government. You have mentioned Prestwick, and I am an Ayrshire MSP. I am delighted at the intervention that took place 11 years ago to recognise the strategic importance of Ayrshire, and it is great to see the airport returning to profitability, with more routes and so on. As was stated at the outset, however, the intention was to return the airport to the private sector—and that could perhaps also apply to the other investments that we have made when the time is most appropriate.

Could you give us a little flavour of the policy intention behind something like that—driving the business back towards profitability? Is there a tension in doing that for its own sake rather than to address the demands of the local economy? We want to return the airport to the private sector, and that has clearly led to a number of actions over those 11 years that have made the airport profitable. What is the balance between getting the airport ready for returning to the private sector and the operational nature of the airport and what it can and should be in the future?

Gregor Irwin: We have made very significant progress in the case of Prestwick airport, and the business has returned to profitability. The operating profit in 2022-23 was £2.1 million, with £0.8 million of profit before tax. The intervention that was made secured the future of Prestwick airport, and we would not be where we are now without it. The airport currently employs 338 staff directly, so it is a very significant employer in the region, and it supports many jobs through the supply chain.

I understand that the committee visited the airport recently.

Willie Coffey: Not this committee.

Gregor Irwin: Oh—sorry.

The Convener: It was the Economy and Fair Work Committee.

Gregor Irwin: If anyone has the opportunity to visit the airport, they will see that it is a very vibrant business. There are many different elements to the business model that the airport operates, and that has been an important part of the success of the business returning to profitability while also making the business more sustainable and ensuring that it remains firmly rooted in the South Ayrshire economy.

I suggest that it is for those reasons, as we look to the future of Prestwick airport, that we have a number of expressions of interest in the business. There is a good opportunity to return it to the private sector at the right time and in the right circumstances, but in a way that preserves its important role within the local economy. That is down to the hard work of the employees and the leadership team at Prestwick, who, over a number of years, have helped to turn that business around.

I am quite optimistic that we are in a good place just now, although we never take anything for granted. Our ministers will be very alert to any potential tension of the sort that you have described, and we, too, will be very alert to that in the advice that we give to them. Part of the business's success in recent years has been to do with its ability to diversify and to establish strong roots in the community as well as a good international customer base.

Colin Cook: I am aware of the fact that the board, in managing the business, is very conscious of the role that it plays in the local economy. As you know, we have recently been undertaking a review to quantify the impact that our investment in the airport has had on the surrounding region.

Perhaps the best insight that I can give into how we try to manage that tension, as you described it, is by referring to the criteria that we would apply for anybody who was interested in acquiring the airport. It is very firmly the case that we would be looking for a partner that had experience of running an airport and had plans to run an airport. That is a demonstration of the perspective that we take, which is that the airport is an asset of national importance as well as of local and regional importance and that we wish to protect it.

Willie Coffey: People in Ayrshire, along with people from further afield, want to see more flights operating from Prestwick. I use the airport as regularly as I can—once a year. I support the airport. I always have done and I always will do. People always ask me, "Why aren't there more flights coming to the airport?" The management team can decide whether to pursue that.

There was also talk about developing the old part of the airport, which I had the pleasure of visiting—it was like walking back into the 1960s. There was a plan to develop that as a big hotel to service the economy and so on, but that never materialised. Is that the kind of thing that has been hampered by simply getting the airport back on to the profitability scale? Looking to the future, could such developments take place with a new buyer? Would the Government have a view on that?

Colin Cook: The board is constantly looking for new and profitable opportunities. It has a very strong commercial relationship with Ryanair, for example, which flies from the airport and uses it as a base for training. The board is constantly looking for such opportunities. Given that it is a competitive market, it must have a product that works commercially for any potential partner. The board is always looking for opportunities to use the airport and its land for purposes that fit the perspective of what the airport should be used for. We can give you a guarantee that the board is constantly looking for things that can enhance Prestwick's profitability and the impact that it has on the local area.

Willie Coffey: I am probably talking too much about Prestwick, but the need to look beyond the current situation applies to the other investments, too. Given that buyers could potentially come in for any of the assets that we are talking about, does the Government retain a view of what those assets should be and how they should develop in the future? The minute that we hand over an asset to a private owner, they become the owner of that asset and it could change completely. If the Government were to hand an asset over to the private sector, what guarantees or assurances would it seek in order to protect and preserve what has been delivered locally for the economy?

Gregor Irwin: Let us take the case of Ferguson Marine. Right from the start, the reason for intervening there was to ensure the delivery of the two vessels, because of the important role that they will play in ferry services for our island communities. However, it was also to preserve jobs and commercial shipbuilding on the Clyde, and because of the economic importance of the yards in Inverclyde. Those broader objectives were articulated right from the start, and they remain important now as we look to secure a sustainable future for the yards.

09:30

The asset needs to be able to succeed commercially—that is an important requirement for long-term sustainability for the yards—but there need not be conflict between the objectives. Ministers are certainly mindful of the wider objectives, and we ensure that they are given due prominence in all our advice to ministers.

Willie Coffey: How would the Government assure the Ayrshire public, for example, that, following any future sale of Prestwick, it would continue as an airport with passenger aircraft traffic and those kinds of services? Any new buyer might wish to take it in a different direction. Would the Government have a say in guaranteeing that operational capability in any future sale?

Gregor Irwin: In the case of Prestwick, we have been very clear—as Colin Cook mentioned—that, as we seek expressions of interest in the airport, we are looking for parties that are willing to commit to its future as an airport and an aviation asset. We recognise that Prestwick is, in many regards, almost a unique asset because of the sheer size and scale of the runways and its location. It has a number of advantages.

We are confident that the fact that it is not only an airport but one that has particular sources of competitive advantage is right at the core of what makes it attractive to potential bidders. The long runway is the longest in Scotland and the longest north of Manchester, which means that it is attractive to certain users. It has other advantages, too, such as the ability to receive flights with fewer restrictions than some other airports, which makes it attractive to cargo customers. All of that is important in creating a scale of operation, through the diversity of sources of revenue and customers as an airport, that makes it not just viable but attractive commercially.

The importance of Prestwick remaining an airport and an aviation asset that is rooted in the community, with suppliers across South Ayrshire, is very much part of the process in which we are engaged. As this proceeds, if we get to the point at which we are looking at a decision on a recommendation to accept an offer to purchase Prestwick airport, we will, at that stage, look at what we can do to firm up the commitments that can be made as part of the process. Right at the start of the process, we would be looking at and testing the seriousness of potential bidders for Prestwick with regard to ensuring its future as an aviation asset.

Colin Cook: It is worth remembering that the Government has turned down, or not taken any further, expressions of interest when we did not believe that there was a clear business plan to retain the airport as an operating airport and when the people behind the bid did not have the sufficient level of experience in running an airport that we would look for. I think that we have already demonstrated, therefore, that that aspect is very much part of our thought process.

Gregor Irwin: We have criteria that we use. Those include a clear business plan that is backed by finance; a track record of running a business of that sort; and really good ideas for how to make the best of the asset as an aviation asset in the future. All of that is important from the start of the process through to the end, should we get there.

Willie Coffey: I thank you for those reassuring words.

In general, how are the public assured that the continuing investment by the Scottish Government in all the assets provides value for money? We will continue to retain and invest in the assets, to keep them operating. Prestwick is profitable, but how does the public get the assurance that the money that we spend on all the assets that we have invested in will deliver value for money in the years to come, before we can think about returning perhaps all of them to private ownership?

Gregor Irwin: That is one of the areas in which the strategic commercial assets division has helped us to make improvements. The creation of the business investment framework is part of that assurance process. That is about ensuring that good decisions on intervention are taken in the first place.

In addition, we have created the strategic assets review group. I chair it and the permanent secretary, other directors general and non-executive directors are members. Its purposes include providing challenge to what we do and ensuring assurance. The provision of transparency and accountability through such committees as this is also an important part of the process.

Ultimately, there is the evaluation of the impact of our interventions at the appropriate stage of their life cycle. That is an important part of the assurance process.

Willie Coffey: Thank you very much for your answers.

The Convener: I will move things along now and invite Graham Simpson to put some questions to you.

Graham Simpson (Central Scotland) (Con): To go back to Prestwick airport, Mr Irwin, it was you, I think, who said that there are a number of expressions of interest in the airport at the moment. Is that correct?

Gregor Irwin: Yes.

Graham Simpson: How many?

Gregor Irwin: I could not put an exact number on it.

Dermot Rhatigan: We have not revealed the number. It is definitely more than one. It is multiple. Ministers have said that, but they have not wanted to say—

Graham Simpson: It is two, is it not?

Dermot Rhatigan: I would not be able to confirm that. There is a reason not to do that now. First, some of them might fall away. Secondly, we would not want to share that information with the people who are in the process, because it would let them know how much competition there was.

Graham Simpson: Okay. I think that it is two but, whatever the number, one of those expressions of interest is headed, shall we say, by the former chairman of the board. Is that correct?

Gregor Irwin: Yes. There has been interest.

Graham Simpson: Is it appropriate that the former chairman of the board at Prestwick should head up a bid? I know that he is the former chairman, but, in the past, he would potentially have had sight of bids that had been turned down.

Gregor Irwin: He resigned in February, when he submitted that bid as part of a consortium. That was important and necessary in order to avoid any conflict of interest. An important part of any sales process is to ensure a level playing field between the different parties. We have appointed commercial advisers to provide us with guidance on our future sales strategy, as well as legal advisers. That speaks to the convener's first question, which was about adviser spend. As we manage the sales process, it is very important to have the right type of external advice, to ensure that we rigorously apply the letter of the law that governs such a process. Ensuring that there is a level playing field is a very important part of that. We are aware of and focused on that issue; we are confident that we have good legal and commercial advice; and we have a good framework in place to manage the process and address any potential concerns of that sort.

Graham Simpson: You can see the risk, can you not? If his bid were to succeed and another bid did not, could there not be a perception of it being a bit of an inside job?

Gregor Irwin: There are many issues that need to be addressed in a sales process of this sort, and we are confident that we are diligently identifying those issues and taking advice when advice is required, and that we have put in place a framework to manage them in the right way. We are in quite a good position just now in doing that. This is an example of external commercial and legal advice being important, but that is in place.

Graham Simpson: You are clear that you want Prestwick to stay as an airport, but its business model at the moment relies a lot on freight and military flights. Do you expect someone to retain that current business model, or would you accept interest from someone who said, "We don't want to do it that way—we've got other ideas"?

Gregor Irwin: One strength of the business in recent years has been the range of ways in which it has developed revenue from different types of aviation business. Yes, that has included military flights and freight operations—there is lots of potential for growth in that area—as well as passenger flights, with potential to grow there as well. Increasingly, the business is well diversified as an aviation business, and I see that as a considerable source of strength. There is something really good there to build on, which is why the business is attracting expressions of interest. We would have an open mind, and of course we would welcome creativity and further finance and expertise that could come into the business to develop it further. However, we are clear that we want it to remain as an aviation asset.

Graham Simpson: I will get off Prestwick now and move on to Ferguson Marine. I understand that a framework agreement is now in place, but has it been published?

Colin Cook: Do you mean the framework agreement between the Scottish Government and Ferguson Marine?

Graham Simpson: Yes.

Colin Cook: There is an existing framework agreement, which we wrote back in March 2022, but we have been working with the board on a new one. I understand that it has been agreed by the board, and we will be putting it to ministers for clearance, at which point it will be available for anyone to see. It is the kind of document that comes under Ferguson Marine's publication scheme with regard to the way in which it runs the business.

Graham Simpson: Okay. We look forward to seeing that.

Mr Cook, you and I were at the recent summit, as it was described, on Ferguson Marine, which was held in Greenock. It was a useful meeting, but it was private, so I will not reveal what went on. Afterwards, however, the Deputy First Minister made comments on the generalities of what was discussed, and one of the issues that came up was future investment in the yard. I will not ask you to reveal any figures, but we know that the Government turned down a proposal from the previous chief executive and that there is a new set of proposals from the current management. Has a decision been made yet on whether the Government will invest further money in the yard?

Colin Cook: A decision on the business plans that the board has submitted has not yet been made. No doubt, the decision will be made shortly. We will be looking at the strength of those business plans, the opportunities that they identify and the costs that have been submitted, but no decision has been made at the moment.

Graham Simpson: That is a bit of a concern. We were all clear—and the Deputy First Minister was absolutely clear—that a decision needed to be made imminently. We are now several weeks after when we met, so why has that decision not been made yet?

09:45

Colin Cook: It is a decision that ministers will want to take carefully. A number of factors to take into account came out at the meeting that you are referring to. It is a complex decision, and it has to be the right one for the yard, for taxpayers, for the yard's customers and particularly for the communities that will benefit from the ferries that it is building. Ministers will take that decision, and I know that there is a continuing determination to take it quickly.

Gregor Irwin: The decision also needs to be compliant with subsidy control rules. We need to have external scrutiny and due diligence of any proposal for investment as part of a business plan. That takes time, but we are pursuing that as quickly as we can.

Equally, we need to do this in the right way, because it is not in the interests of the yard and its workers if there is a legal challenge to any decision. It is important that we get it right.

Graham Simpson: With all due respect, Mr Irwin, we have known about this for some time. In December, I received a written answer from the former cabinet secretary, Neil Gray, when I asked him what subsidy control rules prevented the David Tydeman request. He said:

> "The independent due diligence on Ferguson Marine's initial capital investment request concluded that the initial business case would not meet the Commercial Market Operator test, which is a key legal requirement if we are to demonstrate compliance with the subsidy control regime."—[*Written Answers*, 11 December 2023; S6W-23299.]

Given that you have just mentioned that issue, have we not answered that question yet?

Gregor Irwin: We are talking about two different business plans and investment proposals. Mr Gray was referring to the initial business plan and investment proposal. The due diligence concluded that that proposal would not meet the commercial market operator test and therefore would not be consistent with subsidy control rules.

Graham Simpson: I know that.

Gregor Irwin: The more recent business plan was submitted on 5 April. Now that we are in receipt of it, we are pursuing the due diligence and providing advice to our ministers in the right way. We are making sure that we get it right and that it is not susceptible to legal challenge, because that would not be in the interests of the yard or its workers. We hope that that will reach a conclusion soon—we can absolutely say that—and we are doing everything that we can to do that as quickly as possible.

Graham Simpson: I understand that, but surely the same legal issues apply to the current request as to the previous one.

Gregor Irwin: The same legal principles apply but, each time, the actual proposal that is made must be tested. The test is whether a commercial market operator would take forward the business case and investment proposal, so it is very specific to the actual proposition. Each time that we get a business plan and investment proposal, it needs to go through a due diligence process so that we can be assured that it meets subsidy control rules.

Graham Simpson: Are you waiting for legal advice on that?

Gregor Irwin: We are getting to the point where we have the due diligence in place and can put the decision to our ministers. It is more about the commercial due diligence. The legal advice is clear, to be honest—we understand what exactly the position is on the subsidy control framework—but we require commercial due diligence to be undertaken, because each specific business plan and investment proposal needs to be subjected to the commercial market operator test. I hope and expect that we will be able to bring the process to a conclusion very soon.

Graham Simpson: Mr Cook, are you able to give us any idea of how long that will take? Is it going to happen within days? Weeks ago, I thought that it would be happening within days.

Colin Cook: I am afraid that I cannot offer a definitive timetable, but I again assure you that we hope to bring this to a conclusion fairly soon.

Graham Simpson: I want to ask about something else that came up and which might, I think, be the subject of a Government-initiated question. The small ferries replacement programme will be of great interest to the yard. Has a decision been made on that yet?

Colin Cook: That will be a decision for the Cabinet Secretary for Transport, and I do not believe that the decision has been made yet.

Graham Simpson: So there is no decision yet—okay. Well, if we do see an answer to that question, which I think has been asked, I hope that the answer will be, “No decision has been made yet” if that is what the—

Colin Cook: I am sorry—did you say that there is a Government-initiated question today?

Graham Simpson: Well—

Colin Cook: I am sorry, Mr Simpson, but I was not aware of that.

Graham Simpson: I believe that there might be one—we will wait and see. However, you are telling us that no decision has been made on—

Colin Cook: I have not been informed of a decision made by the Cabinet Secretary for Transport on that issue, no.

Graham Simpson: Okay.

I have one more question on Ferguson Marine in relation to the new interim chief executive, Mr Petticrew, who, unfortunately, pulled out of the meeting that we had. When I asked about his relocation expenses, I was told that he did not get any. I understand that he lives in Canada, but I was told that his remuneration package includes a travel and subsistence allowance. Therefore, is the Government paying for Mr Petticrew to travel from Canada to Scotland?

Dermot Rhatigan: We would have to get information from the business on that. It is a contractual matter between the business and Mr Petticrew, but he has not received a relocation package. He has not relocated from Canada to Scotland; he lives in Canada. He has an appointment as an interim chief executive for six months and, like all other employees at the yard, he is entitled to claim for travel and subsistence.

Graham Simpson: But we are talking about travel expenses—from Canada.

Dermot Rhatigan: I do not know the details of what he has claimed for under his expenses. However, he is entitled to claim for expenses that he has incurred in needing to be here to undertake his duties in Scotland.

Graham Simpson: I would certainly like more details on that. I will leave it there, convener.

The Convener: I am tempted to ask whether he is going to be flying backwards and forwards every weekend. How regularly would you expect somebody in that position to draw down the expenses that they are contractually entitled to?

Dermot Rhatigan: That is something that we can take up with the business or, if you want to write to the business yourselves, it will give you details of that. However, it is a contractual matter. As far as I understand it, he is not travelling weekly between Scotland and Canada, but I do not know the details of how often he has made that journey.

The Convener: Mr Cook, you attend the FMPG board meetings, do you not? Do you know the answer to those questions?

Colin Cook: No, convener, I do not have the details of Mr Petticrew’s weekly travel arrangements. As I have said, the yard can answer questions about the overall package that it put together to secure his services for six months, and I know that it will be willing to give you the information that it feels is appropriate.

The Convener: What about his predecessor? Parliament was told that the Government had nothing to do with the termination of Mr Tydeman’s contract. That looks a bit odd, does it not, given that the Government is the sole shareholder in the business?

Colin Cook: The responsibility for the employment of the chief executive lies with the chair of Ferguson Marine, and the decision to terminate Mr Tydeman's appointment was a decision that was taken by the chair with the support of the board.

The Convener: However, the cabinet secretary told Parliament that she was informed at least a week beforehand. I think that she was told in February that there were murmurings about the performance of the chief executive and then, a week before he was sacked, she was told about it. Was she merely the recipient of that advice? Was there no active role played by Government in that decision? Could she have intervened to stop it, if she had believed that that was the right thing to do?

Gregor Irwin: The board is appointed by ministers to provide strategic direction and oversight for the executive team at Ferguson's, and I point out that one of the important functions of the board and the chair is to appoint the chief executive. That is very much a matter for the chairman of Ferguson Marine.

Ms McAllan, in her previous cabinet secretary role, was made aware on 28 February that the board was considering taking action to address performance issues related to Mr Tydeman's tenure, and the former First Minister was made aware around that time, too. They were later informed—on 18 March, I believe—that he would be dismissed on the week commencing 25 March, and he was indeed dismissed on 26 March.

Ministers were informed, and we were informed, too, but it was very much a decision for the chairman of the board, and it is important that we respect the roles and responsibilities of different parties involved in Ferguson's, including the role played by the chair. It would not be appropriate for the Government to interfere in the board's decisions on whether or not its members have confidence in the chief executive.

The Convener: But the chair of the board is appointed by ministers.

Gregor Irwin: Indeed.

The Convener: And is directly accountable to ministers.

Gregor Irwin: He is appointed to do a job, yes, and that is part of his job.

The Convener: I will leave that there, because of time, and invite Colin Beattie to put some questions to you.

Colin Beattie (Midlothian North and Musselburgh) (SNP): I would like to explore one or two things, some of which we have touched on.

Let me ask an obvious question. You have various strategies in place in connection with the current investments. Is there an exit strategy in place for all three of the current investments that are being managed?

Gregor Irwin: I would put Ferguson's and Prestwick in a different category from Lochaber. We do not have an equity stake in Lochaber; we have provided a guarantee in that case, and that is a long-term commitment. We are confident that that has been an important intervention, which has secured jobs at the smelter, with more than 200 people working there, and there are many more people employed in the supply chain. We think that our interests are well managed, and we have a good suite of securities. However, that intervention by the Scottish Government is managed in a different way from those other interventions, where we are the owner of the assets, as is the case for Ferguson's and Prestwick.

Colin Beattie: But, with Lochaber, there must still be some strategy to have an end date for that commitment.

Gregor Irwin: The commitment is fixed in time, but it is a long-term commitment that has many more years to run.

Colin Beattie: How long is it?

Dermot Rhatigan: It was a 25-year guarantee, starting from December 2016, so we are into the eighth year of it now—we are heading towards a third of the way through it.

Colin Beattie: Is there no possibility of laying off that liability?

Dermot Rhatigan: No, there is not. It is an irrevocable guarantee. It has to be that way in order for the business to raise finance. On the question of the exit strategy from the Lochaber guarantee, it runs down over time—so, the liability runs down over time. At the end of the period of time, the guarantee falls away.

Colin Beattie: Given that we have been into the liability for a number of years now, can you say whether it has been performing? Is it going according to expectations?

Dermot Rhatigan: We would say that it is performing well in respect of the financial arrangements. When we give a guarantee, we charge a price—a fee. We are receiving that fee, and all the payments due to the Scottish Government are up to date. There are payments due to the third-party bondholders, who put up money to the GFG, and all of those payments are up to date. Financially, it is performing well.

Economically, the guarantee has met its objectives in the sense that it kept the smelter open. When we spoke to Rio Tinto in 2016, it did not want to operate the smelter any more. It was the smallest smelter in its fleet, and it is actually one of the smallest smelters in the world. Rio Tinto put the asset on the market, and we spoke to the five parties that were shortlisted, four of which would have closed the smelter—they were interested only in the energy assets.

10:00

GFG was interested in the energy assets. We made the offer of the guarantee available, via Rio Tinto, to all the shortlisted parties, and GFG made commitments to keep the smelter open and invest in the site. That was why we made the offer. GFG has kept the smelter open. As Gregor said, around 214 people are employed directly at the smelter, and a multiple of that—maybe two or three times as many people—rely on the smelter directly in the supply chain or have jobs that are supported through the induced spending that comes from it.

We are meeting those objectives. The bit that we have not yet secured is that GFG has not yet made the follow-on investment that we wanted to secure through the guarantee.

Colin Beattie: When did it give that undertaking?

Dermot Rhatigan: What happened originally, when we worked with the business—

Colin Beattie: This was back in 2016.

Dermot Rhatigan: Yes. The business plan that we agreed then with the business to support the guarantee was to invest in alloy wheel production. The alloy wheels were to go into the United Kingdom car market. At that time, in 2016, UK car production was at a peak, with around 1.7 million cars being produced, but it is less than half of that now. That is partly a Brexit effect and partly because some manufacturers decided to move production to Poland and other places. We could see why GFG no longer wanted to invest in that business plan—simply, the market for domestically produced alloy wheels had fallen away.

Colin Beattie: Was GFG's undertaking to invest contractual?

Dermot Rhatigan: It did not have to invest in the alloy wheels plant. It has to make an investment of a certain scale but, if an investment that it is planning to make no longer looks viable, it is able to pivot to alternatives. We have worked with and supported GFG to scope out an alternative investment, which involves a billet plant and a recycling facility for aluminium. That will produce fewer jobs than the original investment, but it is less risky. The product can go into many markets, so there is not a reliance on one or two buyers.

Colin Beattie: When will that investment be made? I presume that you have been in discussions for eight years.

Dermot Rhatigan: We have. We speak to GFG very regularly—we have quarterly meetings with the business. It secured planning permission for the alloy wheels plant and it has secured planning permission for the billet plant. It has also been able to reserve funds for that development, which we were able to see. I do not think that it will be ready to proceed until the GFG Alliance can get a global refinancing completed, and it needs to get that done with its three major creditors.

Colin Beattie: What is the timescale for that?

Dermot Rhatigan: That is a decision between GFG and its creditors, but it has been hoping to do that for a period of time. It has partly done it—I think that it has refinanced its businesses in Australia—but other businesses need to be refinanced before money can be freed up to come into Scotland for that.

Colin Beattie: There is a contractual arrangement with the Scottish Government that the investment will be made. Is there a date by which it must happen?

Dermot Rhatigan: There is not a fixed date to force GFG into making an investment that may not pay back, but it has to make an investment in Scotland as part of the agreement.

Colin Beattie: Does the investment not have to be in Lochaber?

Dermot Rhatigan: No, it has to be in Lochaber.

Colin Beattie: So, it is not just Scotland in general.

Dermot Rhatigan: No—it has to be in Lochaber.

Colin Beattie: It seems like we were waiting an awful long time for that investment. How much was it?

Dermot Rhatigan: The investment that the business had planned for the alloy wheels plant had a capital expenditure of well north of £100 million. The investment in the billet plant is a little bit smaller than that, but it would still be approximate to £100 million—that kind of scale.

Colin Beattie: That is quite significant.

Dermot Rhatigan: It is. In terms of the financial performance of the guarantee, I emphasise that we are receiving the price that we were due to receive for granting the guarantee, so that part of what we wanted is secure.

The other part of the economic case was built on the smelter remaining open and retaining the jobs that are linked to it, including all the jobs in the supply chain—there are many of those. If you are up in that part of the world, you will see aluminium being moved around on lorries, and trains going up to Fort William carrying all the alumina and so on. There are a lot of people involved in that supply chain. All those benefits are secured; the bit that we do not yet have is the flow-on investment into the aluminium plant at Fort William. That is still to be secured, but we are relatively confident that the business will make that investment.

Colin Beattie: You are relatively confident. Are you satisfied as to the good faith in that regard?

Dermot Rhatigan: That is not the way that we would work with businesses. Businesses work in a very dynamic environment. I have explained why we saw that GFG had wanted to move away from the alloy wheels plant. We did a lot of work with our UK Government colleagues who work with the automotive industry. They had told us that the automotive industry wanted an alloy wheels plant in the UK—it was at the top of the list of the supply chain elements that they wanted to bring to the UK. However, the automotive market in the UK simply fell away. That is partly a Brexit-related issue, and it is partly to do with the movement to electric vehicles and all the rest of it, and the churn in the industry.

When we work with businesses, we have to understand that they are working in a very dynamic environment, and things change in their world.

Colin Beattie: Yes, but if you are moving to electric vehicles, they still need wheels.

Dermot Rhatigan: They do, but those vehicles are not all being produced in the UK—many are being produced elsewhere. If you are producing a Mini in Germany, or wherever cars are being produced now, you want the supply chain to be close to you. Most of the UK car production is in the west midlands, and some of that has moved away.

Colin Beattie: To come back to more conventional investment, where investors have equity in the business, what are the exit strategies for them?

Dermot Rhatigan: Gregor Irwin referred to that when we talked about Glasgow Prestwick airport. We have received expressions of interest. As Gregor mentioned, Prestwick was a successful turnaround, and the business has returned to profitability, so it is now attractive to the market.

Colin Beattie: Yes, but receiving bids is part of the result of an exit strategy—it is not an exit strategy in itself.

Dermot Rhatigan: Ministers have been clear on the objectives. They want to return the business to the private sector—that is one of their objectives—but they also want to see—

Colin Beattie: That is a headline. How is the strategy actually being implemented?

Dermot Rhatigan: The strategy for a sale?

Colin Beattie: Yes.

Dermot Rhatigan: We are developing that now. We have developed, in response to the expressions of interest, what the strategy is. As Gregor Irwin said, that is predicated on what gets us to the objectives. The strategy is to realise those objectives. The sale process needs to secure a bidder—a future owner—who wants to retain the airport as an airport and an aviation business, and to retain and maximise the economic benefit that results from that.

Colin Beattie: A strategy implies that there is some proactive effort being put into achieving the ultimate aim of the sale.

Dermot Rhatigan: Yes.

Colin Beattie: Is there?

Dermot Rhatigan: Yes—we are working on that. Gregor mentioned that we have—

Colin Beattie: You are working on the strategy to do that, or you are—

Dermot Rhatigan: No, we are working on the strategy for a sale. That is the expertise that we have retained from external consultants at the moment. They are developing the sales strategy for us, with us, to deliver on ministers' objectives.

Colin Beattie: Okay. I will let you off at that.

How do you approach the assessment of potential investments by the Scottish Government? Are there key criteria that you apply? Are there policy priorities that you wish to achieve?

Dermot Rhatigan: The life-cycle part is important, because we have different objectives at different stages. Maybe Gregor Irwin could expand on that.

Gregor Irwin: Prestwick airport is a good example. We have talked quite a bit about our objectives for a sales process for the airport, which are securing the future of the business as an aviation asset; being mindful of the importance of the airport for the local and regional economy; trying to secure maximum value for money for taxpayers; and a return on the investment that has been made. All those criteria are important.

As Dermot Rhatigan said, we have appointed commercial advisers. They are already progressing with the task of advising us to ensure that we have an appropriate sales strategy, and elements of that are beginning to be put in place.

Ultimately, the evaluation of expressions of interest will be for the Scottish Government as the shareholder and ultimate decision maker. The boards have an important role to play. We will look to them to offer advice and to recommend a preferred bidder at the appropriate stage, but then ministers will have the final say on any offer. I will need to sign off on that as the accountable officer, ensuring that the accountable officer tests are applied rigorously to any sale.

The sales process and those sales objectives will be guiding lights in the process and, indeed, in any process to exit from ownership of a strategic commercial asset.

Colin Beattie: Given the nature of the purchase of this type of asset—I am not talking specifically about Prestwick or Ferguson's—it is not surprising that, when you take it on, the value of those assets will be impaired. Presumably, you take that into account when you are taking on such a business. Things such as pension fund liabilities are a huge issue, and you are unlikely to be taking over a business that is a going concern, at least in the initial stages. Therefore, you must have a strategy to obtain value for the shareholder—or, in this case, for the public—over a period. How do you manage that? How do you achieve that?

Gregor Irwin: I might ask Colin Cook to expand on my comments. It is critical to have in place a good, robust framework to guide decision making. We first produced the business investment framework a couple of years ago, and I know that it was updated last October. The framework is a really important document to guide decision making in those circumstances, in just the way that you have described.

Pension liabilities are an example of where it is important to have the resources to quickly do an appropriate degree of due diligence in order to understand exactly what liabilities the Government would be taking on in those circumstances, as that will inform a decision about how those liabilities can be managed as part of a wider strategy for managing that intervention, being mindful of a future exit strategy. Those are all things that we have tried to bring to the approach of the strategic commercial assets division to the management of assets of that sort, to ensure that, right from the start, we are doing things in the right way and that we are clear on what our realistic objectives are for the management of an asset. One of the key aspects to ensuring that degree of realism is, as you alluded to, to be clear about what the potential exit strategy is and, in some ways, to work backwards from that.

The frameworks that we have put in place, including the business investment framework, are a really important part of the system that we now have to ensure that we get that right.

10:15

Colin Beattie: At the start of the process you have a mechanism for determining the true value of the business that you are taking on—which might be zero, given that it will be an impaired business. There will therefore have to be some appetite for risk in taking it on, which might be covered politically or by other means in the final analysis. For example, we have talked about saving jobs and so on. However, at least in the initial stages, you will not be taking on a business that is viable. You have to be able to assess that there will be a future value in the business and that it will break even at some point, and you must do that quite quickly, because the business is in distress, and something needs to be done at that point and confidence has to be put back in immediately. How do you do that?

Gregor Irwin: Colin Cook might wish to expand on this, but I would emphasise two points. First, it is important that we bring in credible, expert, independent external commercial advice in a timely manner—it is important that that advice is independent because, if it is not, there is a risk that optimism bias will creep in and we could see opportunities where they might not exist—and we have therefore established frameworks for ensuring that we can procure such advice quickly, at the right moment, so that it can aid decision making, while recognising that the decision-making processes will be compressed.

Secondly, you mentioned being clear about the risks and ensuring that they are built in to the decision-making process. As an accountable officer in those circumstances, my role is to ensure that we are being honest and straight in our understanding of the risks and the potential implications of any interventions from the perspective of value for money or feasibility. The AO process and the role that I would play in those circumstances are important, but I have to be assured that we have the right evidence and information to make that decision, that it is consistent with the SPFM, and that I can come to a committee such as this to justify my role in that decision-making process.

Colin Beattie: Perhaps I could ask one final question. We have spoken about due diligence, but that does not just stop at the point of purchase. What on-going due diligence do you maintain over such investments?

Gregor Irwin: We have already referred to one type of due diligence. If we have a request to fund an investment, as happened in the case of Ferguson Marine, it is important that we have both a business plan from the yards and absolute clarity on the commercial case for that investment. In those circumstances we need to procure independent, expert commercial advice so that we can be assured that the proposition would satisfy the commercial market operator test and therefore comply with subsidy control rules.

Colin Cook: On a number of occasions today we have spoken about the lifecycle model that the strategic commercial assets division has allowed us to introduce. One of those elements—the third in that lifecycle—is on-going management. That is where we would focus on financial and risk management and the sponsorship process. That is a core function of the division, which is why, for example, a member of SCAD is likely to be an observer on the board of a company in which we have an equity stake. Those are the approaches that we have at our disposal.

The Convener: Okay, thank you. I am going to bring in our deputy convener, but before I do so I have a couple of quick questions, which I hope will have quick answers.

Mr Rhatigan, did you say that the guarantee that the Scottish Government struck with GFG Alliance was also offered, via Rio Tinto, to the other four prospective bidders?

Dermot Rhatigan: Yes.

The Convener: Yes, it was. Thank you.

Secondly, you said that you thought that the global refinancing would need to be completed before the investment in the billet plant would be made. What happens if that does not materialise?

Dermot Rhatigan: I am sure that you will know, because it has been reported, that GFG Alliance was heavily reliant on Greensill Capital and Greensill Bank. Greensill failed in March 2021, and a lot of money needed to be refinanced. Greensill Capital went into administration, as did Greensill Bank. GFG is in discussions with those creditors. I do not know the exact quantum, but I have seen reported in the *Financial Times* that it is looking to refinance something like £5 billion-worth of debt, so it is a very big number.

Those parties have all stayed at the table for three years. GFG tells us that it is making progress and that it is heading towards a deal. The three creditors are working together consensually, but they will have to decide among themselves who gets paid back first and what share they get of the resources that GFG can bring to the table. I do not think that GFG will have the confidence to go ahead with its investment in Scotland until its global refinancing is complete.

Over quite a long period, since 2021, we have been seeking those updates, but we are not at the table for those discussions, so we get them only from GFG. It has made some progress. It has refinanced a business in Australia, which I think might be the forerunner of the kind of deals that it wants to do for the other businesses, but all that has to fall into place before it has the confidence to invest in Scotland.

The reason that I previously said that we have a degree of confidence in GFG making the investment in Scotland is that it has invested in the Lochaber business. Particularly in the first few years of owning the smelter, which was loss making, GFG put money into the business to cover those losses, so it has invested there.

The figure that was reported for the price of the sale from Rio Tinto—again, this was in the press—was £330 million. GFG bought into those businesses in Scotland, and it has put in money since. We have also seen some investment go into the planning of the development, and the business has reserved some funds that we are able to see for that development.

Those factors give us confidence. The thing that we have very little visibility about is the position on global refinancing, so we are reliant on GFG giving us assurances about that.

The Convener: Okay. I have a quick question for Mr Irwin. Back in January, when you were before this committee, you told us that

"the appointment of auditors in the UK is a priority"—[*Official Report*, *Public Audit Committee*, 18 January 2024; c 39.]

for the GFG Alliance. Have they been appointed yet?

Gregor Irwin: I will have to ask Dermot Rhatigan to respond on whether there has been any progress on that.

Dermot Rhatigan: No, there has not. We ask about that at all our meetings with GFG. Ms McAllan met Sanjeev Gupta on, I think, 27 March, when she pushed that with him. GFG has told us is that it has made approaches to a number of accountancy firms, auditors and so on. It has not been able to secure an auditor to take on the work. Companies House will be pushing it on that, but I understand that there is no auditor of last resort in the UK, so no one will step in if a business is unable to secure an auditor for the account.

It is a matter of concern for us, and the Auditor General has said that it is a matter of concern for him. The business would like to have an auditor, but it has not been able to secure one.

The Convener: It is a matter of concern for the Public Audit Committee of the Scottish Parliament, too.

I will bring in the deputy convener.

Jamie Greene (West Scotland) (Con): Do you have any women in senior leadership roles in those forty positions? I just see a panel of men in front of me.

Dermot Rhatigan: We have five units. Those are led by staff at the grade that sits below me in the division. Of those, three of the five are female led.

Jamie Greene: That is good to know.

What I have heard about Lochaber smelter is quite concerning, and I am sure that we all share that concern. My understanding is that the Scottish Government has committed to a 25-year guarantee. Audit Scotland has estimated the exposure to the public purse to be in the range of between £14 million and £32 million a year over the contract. What is your current estimate of exposure and how much public money has been invested in the business to date? If you do not have those numbers now, you can write to us with them.

Dermot Rhatigan: As part of our consolidated accounts work, we have to make an assessment of the contingent liability of the Lochaber guarantee. We have paid out no public funds under the guarantee; in fact, the guarantee continues to be a revenue-generating asset for the Scottish Government. We receive guarantee fees every quarter from the business.

Under international accounting rules, we have to look at that contingent liability and take a realistic view of what the exposure could be. The exposure that we reported in the last set of accounts was £135 million. We get a specialist independent firm to do that valuation for us. It was driven to that figure by a number of things. It looks at a range of credit risk scenarios and all the cash flows of the business that sit beneath the guarantee, and it takes a view.

We have to assign a category of risk to the guarantee. Because GFG has lost its major financier—Greensill Capital—we treat it as if it is in default in that rating. We score it as credit impaired, and that drives where we get to the value of the expected credit loss. The guarantee is not in default, but we have put it into the highest category of risk on a prudent basis. That drives calculations about how much of our assets could be generated to sit against the guarantee. Essentially, a big haircut is taken off the value of the assets because we have put on that rating.

Jamie Greene: Are you locked in for the full term of the contract? Is there any get-out at all?

Dermot Rhatigan: No. Because of the way that those guarantees work, there is no get-out when such a guarantee is given, but we have security over assets that back up the Government's guarantee. If the guarantee was ever called, the first line of defence is that we have cross-guarantees. The companies that sit above the Lochaber businesses—all the group entities—have given us cross-guarantees. We can immediately call on those cross-guarantees from the group companies to seek recompense.

A second line of defence is that we have security of the assets. For example, we have step-in rights to operate the businesses if we wanted to do that.

Since 2021, we have done an awful lot of contingency planning around the guarantee to understand what would happen if there was a default and how we would try to recover the Government's position. The £135 million that we show as the potential credit loss could never be called in one go. The significance of the annual figures that you have quoted is that the guarantee payments are due annually, and they could never be called up in one go. If there was a default, the Government would have to make good the quarterly payments that go to the bond holders, which are in the range that you quoted of between £14 million and £32 million over the life of the guarantee.

Jamie Greene: Okay. In other words, you cannot backdate it. You cannot accumulate annually the—

Dermot Rhatigan: No. The payments cannot be accelerated.

Jamie Greene: There is a wider question. I am looking at the major strategic investments of the past five to 10 years in Burntisland Fabrications, Ferguson Marine, Lochaber and Prestwick airport. A lot of Government loans seem to be involved in a lot of those businesses. Obviously, there are different types of investment. There will be strategic infrastructure investments and cash injections to do things and make those businesses better, but there are also straightforward cash injections.

It seems that many of those are being written off. I presume that the decisions to write off loans are political ones made by ministers. The figure for BiFab is around £50 million, there are about £45 million to £50 million loans to Prestwick and there is at least £100 million—possibly more—in loans to Ferguson. It is hard to track down the numbers but it is an awful lot of public money.

Who makes the decision as to whether loans are written off? When you look at the future strategy or the exit strategy for those businesses, is it more than likely that the loans will not form part of any takeover strategy?

10:30

Dermot Rhatigan: We have to make an estimate of the valuation of those financial instruments every year. Those estimates are reported in our accounts and commented on in the Auditor General's report, too.

Let us take the loans that have gone into Glasgow Prestwick airport for example. We value those loans, take a realistic view on how much of that money can be recovered and report it openly. The Prestwick loans are in the accounts at £11.6 million. That is an estimate of what we could recover. The difference between what we loaned to the business and what we value the asset at now has not been written off; it has been written down as an estimate. We have to do that. However, the Glasgow Prestwick business has returned to profitability and it is possible that we would revise that upwards.

With the Lochaber guarantee, the expected credit loss is driven partly by our assumptions about how likely it is that GFG can complete the refinancing and by the price of energy, which drives the value of the assets. That figure changes, too.

Some of the money has been written off. You mentioned BiFab. That investment is written off but BiFab is going through an administration at the moment. There is still potential for the Scottish Government, as a secured creditor, to recover some of that money.

Jamie Greene: There clearly has to be an exit strategy for the businesses, and you have a whole department that considers nothing but benefit realisation. Is there any reluctance in your department to return the businesses to the private sector as going concerns? In effect, you are talking your department out of jobs. If all four of the businesses went into private ownership, there would be no SCAD and, presumably, 40 people would be doing something else in Government. Is there any conflict between what you are doing in keeping the businesses going and a definite strategy for getting out?

Gregor Irwin: The answer to that question is no, there is no conflict. The division helps to address any potential conflicts that could exist if work in the area was led, for example, by the team that leads on broader policy on shipbuilding or transport. It provides a degree of objectivity and discipline in the decision-making process.

The team is absolutely committed to securing the best possible future for Ferguson Marine and Prestwick Airport. We want to do that and to reduce the size of the teams that need to support those assets daily. Without doubt, that would be success, as far as we are concerned.

Jamie Greene: The problem that I have is that it is almost eight years to the day since I sat in a committee room three floors up from the one that we are in now with a Government minister in front of me and asked what their exit strategy for Prestwick airport was. What faith can we have that you guys are the ones who will deliver the exit strategies for Ferguson and Prestwick, given that there seems to be a lack of progress on both?

Gregor Irwin: There has been considerable progress. The business has returned to profitability, which is absolutely key for any successful exit strategy. It is doing well and has secured a diverse range of sources of revenue. It is a vibrant business and a big employer. We now have a number of expressions of interest. We have appointed commercial advisers and are developing a sales strategy, which is already advanced. We have the right decision-making framework in place to support that, so I am confident that we are doing what we can, in the right way, so that, under the right circumstances, and at the right time, we can return Prestwick to private ownership.

Jamie Greene: However, the problem is that this is the groundhog day that we have all heard about before. Time after time, we have heard people sitting in committee rooms saying exactly what you have just said. They say that things are all heading in the right direction, and lots of positive noise is made, but then it all falls apart. Nobody knows why, who has bid, how much they bid or the reasons for the Government turning down bids There is a general lack of transparency around decision making about why ownership bids are refused or denied. You are advising ministers on those decisions. Is there any way in which you could increase the transparency around them?

Gregor Irwin: We have already spoken about the objectives for the sales process and what ministers want to achieve. In the case of Prestwick, we have described the importance of securing its future as an aviation asset, and also its importance for the economy and for securing value for money for taxpayers.

Inevitably, we will receive expressions of interest that are speculative. After probing and appropriate due diligence, we will come to the conclusion that the people involved are not serious or credible. They do not have a plan—or certainly not one that will meet our objectives. In such cases we will turn down those expressions of interest and stop considering them.

What is different now is that the business is in a position where the opportunities and the potential for it are clear. It is demonstrating that it is successful in a number of different areas. I do not think that we have been in that position at all. I have been in my role for only 14 months, but I do not think that we have ever before been in a position where we can point to the business as being a successful, thriving one. That is a good position to be in if you want to attract a wide range of expressions of interest and have a competitive sales process that allows us to realise our objectives.

Jamie Greene: Mr Cook, did you say that you attend board meetings at Ferguson Marine?

Colin Cook: I attend board meetings at Ferguson Marine, either in person or via my nominated deputy.

Jamie Greene: Who is the current chairman of the board?

Colin Cook: Andrew Miller.

Jamie Greene: Was he not the chairman of Prestwick airport?

Colin Cook: He was the chairman of Prestwick airport.

Jamie Greene: He failed to return that to the private sector. Do you have confidence that he can do it at Ferguson's?

Colin Cook: I have a lot of confidence in Andrew Miller's abilities. As Gregor Irwin has described, Prestwick airport has been transformed and has turned itself into a profitable business. I am confident that Mr Miller played a big part in that.

Jamie Greene: Why do you think that, two weeks ago, David Tydeman, the former chief executive of Ferguson's, told the media that he had absolutely no idea why he was sacked?

Colin Cook: As we said earlier, the rationale and the reasons for Mr Tydeman's sacking are matters for the chairman and the board, and they had expressed concerns.

Jamie Greene: Did Andrew Miller tell you the reasons?

Colin Cook: I appreciate the job that David Tydeman did, and I watched him do it. I watched him do very good things to build the confidence of the trade unions and the workforce. However, at the end of the day, the chair and the board collectively decided that there were concerns about Mr Tydeman's performance, over a number of months or years, relating to the delivery of vessels 801 and 802 and other aspects of the organisation. They made that decision, which was a matter for them, and we support them in that.

Jamie Greene: Why has there been so much churn at the top of these organisations? Why are companies not able to hold down well-paid chief executives?

Colin Cook: I might dispute the fact that there has been churn at the top of them.

Jamie Greene: There have been three in two years.

Colin Cook: Andrew Miller was chair of Prestwick airport for a number of years. As we have described, Forsyth Black stood down because of his involvement in the process. Therefore there were reasons why the chair of those organisations had to be changed. Mr Miller has been chair of Prestwick airport for 18 months now. David Tydeman was chief executive of Ferguson's for two years, which was a reasonable length of time. Decisions were taken about his performance in the same way that, during his time in office, Mr Tydeman took decisions to change members of his senior management team. All that has happened in the normal course of running a commercial entity.

Jamie Greene: I want to move on to the future of Ferguson Marine. It is now publicly owned and therefore fully funded by the taxpayer. With regard to the questions that have been posed about the small vessel replacement, you say that that is a decision for the transport secretary, but are your teams issuing any warnings about subsidy control or state aid issues that might prohibit the Government's ability to directly award future vessel procurement to Ferguson Marine—or is that simply not an issue and it is a wider decision about who is best placed to manufacture the vessels?

Colin Cook: We have been working closely with our colleagues in transport throughout the process. Clearly, we have taken advice on the business plan that has been submitted by Ferguson Marine. That advice looks at the viability of the business plan and any issues that that might raise in terms of subsidy control and the ability to pass the commercial market operator test. The information that we have and the views that we have arrived at, along with the perspective of the board of Ferguson Marine, will all be—and has been—made available to transport colleagues. We continue to work with them collaboratively.

However, ultimately, it is a transport decision in the sense that ministers need to ensure that they are content with the procurement strategy that they decide upon for the small vessel replacement programme—that is their decision.

Jamie Greene: Are you aware of any other potential business opportunities for the yard?

Colin Cook: The team at Ferguson Marine has a commercial arm, and I know that it is looking at some other opportunities. It has recently done work for BAE Systems, for example, and it will continue to talk with it and other potential customers.

Jamie Greene: Mr Irwin, I have a wider question—it is a bit of a chicken-and-egg question—about the fact that the business has obviously come to the Government to ask for support, for many of the reasons that you have outlined. Which of those decisions are made purely as good business decisions, and which are made as political and strategic decisions? Are you directed by ministers to make something work if they choose to invest in a failing business, or are you approaching ministers with opportunities and saying, "These are businesses that you could invest in as a Government"? Which way round is it?

Gregor Irwin: With regard to the four strategic assets that we manage, the decisions that were taken to support those businesses or to invest in them were taken many years ago. Therefore, personally, I have not been through that process.

However, in my role as accountable officer, I am very much focused on the value-for-money case for investment in a strategic commercial asset. I would also be mindful of the wider economic benefits that result from an intervention, which is something that our ministers might legitimately take into account in the case of both Ferguson's and Prestwick. Those assets are very important for the local economies. They are very different assets. Ferguson's is the last commercial shipbuilder on the Clyde. Prestwick is an increasingly diverse business with a unique asset in the form of that long runway. Therefore, those wider economic interests are legitimate to take into account, but, as an accountable officer, I would also be very focused on the value-for-money case for any intervention.

Jamie Greene: Are there any other live potential business investments that the Government is considering that you are advising it on?

Gregor Irwin: No, there are no live propositions.

Jamie Greene: How do you respond to accusations from the commercial sector in each of those markets that Government intervention is in some way distorting the commercial market? For example, with regard to Prestwick airport, Glasgow airport was very vocal about that accusation over the years.

Gregor Irwin: That is why we operate within a clear legal framework. We have already referred to the subsidy control framework and the importance of being able to satisfy the commercial market operator test, which requires you to act as though you were a commercial market operator. Therefore, adherence to those legal frameworks is very important.

Jamie Greene: Okay. Thanks, convener.

The Convener: Thank you very much indeed. Graham Simpson has one final quick question.

Graham Simpson: Mr Irwin, given that you have said that there is a sales strategy for Prestwick airport, is it fair to say that Prestwick airport is for sale?

Gregor Irwin: We are looking to secure the best possible future for Prestwick airport. As part of that, the Government's objectives are very clear: we want to return Prestwick airport to the private sector in the right circumstances at the right time. We are open to expressions of interest in Ferguson's and we have commercial advisers in place—

Graham Simpson: Prestwick.

Gregor Irwin: Yes, Prestwick—I am sorry. Therefore, yes, we are very open to—

Graham Simpson: So it is a yes.

Gregor Irwin: We are very open to expressions of interest.

The Convener: Thank you very much. At the start of this morning's evidence session, I said that we were hoping for some illumination, and I think that we have had quite a lot of illumination actually. It has been a useful evidence session. We might still have some unanswered questions that we want to put to you, and we might follow those up with you.

I thank you, director general, for your time and for the range of questions that you have been able to field. Mr Rhatigan and Mr Cook in particular, I thank you both for answering some more far-fetched and difficult questions than you were perhaps anticipating before you came in—[*Interruption*.] I am speaking about my own questions. [*Laughter*.]

Thank you very much indeed for your co-operation this morning. With that, I move the meeting into private session.

10:46

Meeting continued in private until 11:20.

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