



Scottish Affairs Committee

Oral evidence: [Land Reform in Scotland](#), HC 877-V

Tuesday 4 March 2014

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Members present: Mr Ian Davidson (Chair); Mike Crockart; Jim McGovern; Graeme Morrice; Pamela Nash; Sir James Paice; Mr Alan Reid; Lindsay Roy.

Questions 600 - 815

Witnesses: **Sarah-Jane Laing**, Director of Policy and Parliamentary Affairs, Scottish Land & Estates, and **Nick Way**, Director General, Historic Houses Association, gave evidence.

Q600 Chair: Can I welcome you both to this meeting of the Scottish Affairs Committee? As you will be aware, we are looking into the question of land reform in Scotland. Could I start off by asking you both to introduce yourselves and to say a few words about the organisations you are representing?

Sarah-Jane Laing: I am Sarah-Jane Laing. I am the Director of Policy and Parliamentary Affairs at Scottish Land & Estates. Scottish Land & Estates is a member organisation that represents landowners and land managers across the length and breadth of Scotland. We have in the region of 2,500 members, and they range in size from the largest landowners in Scotland down to the smallest. Half of our members have less than 450 hectares and our membership includes private landowners as well as community trusts, institutional landowners, owner-occupied farmers and also companies within that membership.

Nick Way: Good afternoon. I am Nick Way. I am the Director General of the Historic Houses Association, which is a UK organisation with members throughout the UK, with about 1,550 historic houses, castles and gardens in total, of which about 250 are in Scotland and about 50 are open to “pay at the gate” visitors in Scotland. Many more are open for special events, weddings, conferences and concerts—that sort of thing—and special tours. The members vary from ones that we have all heard about—Blair Castle, Hopetoun House, Inveraray, and places like that—through to much smaller houses up and towards the Orkneys and with a range of different types of owners. The majority would be individually or family-owned historic houses, but some are owned by charities and a few are owned by companies. If you look at the UK as a whole, some will be owned by local authorities.

Q601 Chair: Thanks for that. Could I start off by asking you this, Sarah-Jane? When we published our briefing paper on this, your organisation produced a press release in which

you said that you thought an investigation of this sort was unnecessary and unwarranted. Is that still your view?

Sarah-Jane Laing: At the time, because we didn't know what the full scope of the Land Reform Review Group was going to be, we did not know where the findings of that may go. We did feel we needed to give that a chance. It has been clear, as we went along with land reform, that the focus of their investigation narrowed—

Q602 Chair: No, sorry, your reference was to our inquiry.

Sarah-Jane Laing: Yes; that is what I mean. We didn't think it was warranted when the wider or what we hoped was going to be a very wide-reaching land reform review process was going on in Scotland. When it became clear that that land reform was going to focus in on particular issues, we felt that there is a need to look at issues which are wider than are being investigated by the Land Reform Review Group in Scotland at the moment and welcome the opportunity of participating in this review.

Q603 Chair: The statement that came out from your chair, Luke Borwick, seemed to be of the view that the submission had been made by four land experts on their own, as distinct from having been requested from us. We corrected that or we informed yourselves that that was wrong, but I see that the misleading statement that he made at that time is still on your website uncorrected. Can you clarify why that is?

Sarah-Jane Laing: I can't clarify why it is uncorrected on our website. We were aware at the time that our impression was that the report came from four individuals, but I don't think it was clear at the time that we made the initial statement that it was commissioned by the Committee. If that is not clear on our website, then I am happy to try and address that when I return to the office.

Q604 Chair: Okay. In the statement that Mr Borwick made he said, "All landowners...are entitled to government subsidies." Is that the view of your organisation?

Sarah-Jane Laing: All landowners are entitled to Government subsidies if they perform the activity which then warrants that subsidy. You certainly can't access subsidy unless you should be achieving that. I think we will maybe talk about slipper farming going forward, and we have been quite strong advocates of the need to ensure that slipper farming and the ability to access farming subsidies without undertaking farm activity should be addressed as soon as possible.

Q605 Lindsay Roy: Ms Laing, can you tell us about your lobbying role?

Sarah-Jane Laing: The organisation's lobbying role?

Lindsay Roy: Yes, on behalf of whom and with whom?

Sarah-Jane Laing: Yes. It ranges from the work that we do at local authorities, right up to work we do as members of the European Landowners' Organization in Brussels and as members of Scotland Europa in Brussels. The lobbying takes many forms. It can be as members of stakeholder groups, where we are looking to develop new legislation and new regulation, and we look at how that impacts on the sector. We also look at representation on very local issues such as local development plans, right through to structure plans and

national planning framework. It is very, very wide-ranging. It covers areas as diverse as forestry, crofting, housing and tourism. We also lobby in terms of developing good practice, so we were at the forefront of developing Landlord Accreditation Scotland. It takes a very varied and wide-ranging role.

Q606 Lindsay Roy: In terms of land ownership, would it be fair to say that you are broadly in favour of the status quo?

Sarah-Jane Laing: Actually I don't think we are. We were one of the proponents of improvements to the legislation—the community right to buy. We have supported members who are looking to sell estates to communities. We are proponents of all parts of the community being valued and all working together to deliver a successful Scotland. We are certainly not in favour of a very divisive policy which seems to divide landowners from the other parts of the community, but I certainly wouldn't say that we are defenders of the status quo—no.

Q607 Lindsay Roy: What improvements are you seeking?

Sarah-Jane Laing: In terms of the community right to buy itself?

Lindsay Roy: No, in terms of landownership.

Sarah-Jane Laing: In land ownership, goodness, there are lots of things. Land ownership and land management are intertwined. We are very, very keen to see massive improvements in the community planning process and also improvements in the local decision-making process. It is not working effectively in Scotland at the moment. What is happening is that you have a lot of enthusiasm and capacity at a local level which is not being harnessed, so we are looking to see how that can be improved. We are members of a number of community planning partnerships, both as an organisation and members, and working very hard to deliver that. There are very technical aspects of the community right to buy that just are not working at the moment. It is taking communities far too long, where there is a willing seller, to get through the process. There was a study by Dr Macleod. We were fully supportive of a huge number of ways in which we could improve the operation of community right to buy in Scotland, which we think would open up many, many more opportunities for communities to realise their aspirations to purchase land.

Q608 Lindsay Roy: Are you saying you are an advocate and catalyst for community right to buy?

Sarah-Jane Laing: We are supporters of community right to buy where there is a willing seller, yes.

Q609 Lindsay Roy: What exactly have you done to pursue that?

Sarah-Jane Laing: We have done everything from working with individual owners and communities, to giving advice and our thoughts to the Scottish Government on how they can improve the process and legislation. We have carried out work with the Community Land Advisory Service Scotland and other members of the Grow Your Own Working Group to look at where we can facilitate community growing projects. We support community owners

such as Knoydart. We have developed grant mechanisms for community-owned affordable housing, so we have done a wide variety of things to support both community ownership happening and then community owners being successful owners per se.

Q610 Lindsay Roy: As far as I can recall, your organisation described the 432:50 report as unreasonable and unhelpful. Why is that?

Sarah-Jane Laing: We thought there were many elements of the 432:50 report which referred to how things had been as opposed to how things were in the future. We felt, at the time, that a dialogue in Scotland and discussions that had been happening were continuing in a positive vein, certainly with the Land Reform Review Group and others. We had met with Mr Hunter; we had met with that group. We felt that, certainly, the examples of good practice and the opportunity for partnership working weren't recognised at all in that report. We also felt that there were some figures within the report that, when we had checked, were not entirely accurate—especially the ones relating to the renewable figures. Again, I think it gave a picture but it wasn't the whole picture, and we did feel that it was not justified in terms of consideration of the positive contribution by landowners.

Q611 Lindsay Roy: On a scale of 1 to 10, where 1 is excellent and 10 is dreadful, where does this report sit?

Sarah-Jane Laing: Bits of it were excellent and we agreed totally with it; bits of it were dreadful. I don't think I would give an overall score. That would be a bit unfair of me.

Q612 Lindsay Roy: Unreasonable or unhelpful, to me, would have been a 7 or an 8 at least.

Sarah-Jane Laing: Yes: a 6 or a 7, I would say, in terms of the understanding or recognition of the contribution being made by landowners. Yes, I would say a 6 or a 7.

Q613 Lindsay Roy: So it is an anachronism.

Sarah-Jane Laing: The 432:50 report itself, at the time, did nothing to recognise the positive contribution of landowners. That is the best I could say.

Q614 Lindsay Roy: What are the good bits that are missing?

Sarah-Jane Laing: If you look at the affordable housing provision across the whole of Scotland, there is clear evidence that the lengthy history of affordable housing provision in rural areas by private landowners and the environmental benefits which are provided by our membership across Scotland is recognised by SNH and many others: business infrastructure; the provision of commercial units; the provision of tenancy opportunities; and the provision of broadband infrastructure. There are many benefits. There is also the part that estates play in rural resilience. If we look at the winter in Arran last year, one of the estates there was a central hub in providing facilities for the community and for businesses. You also have privately owned estates on the island who are trying to facilitate island ambulance services. So there are many, many areas where private landowners are contributing to the resilience and empowerment of rural communities which were not recognised.

Q615 Lindsay Roy: Chair, I think it would be very helpful if we could get an expanded paper highlighting these examples of good practice. I wonder if you could perhaps do that.

Chair: By coincidence—

Sarah-Jane Laing: Chair, we have one, which was our response to the Land Reform Review Group, which includes about 20 or 30 case studies, but I am more than happy to provide further examples of named estates.

Q616 Lindsay Roy: Having seen the remit, then you would no longer describe the remit of this Committee as bizarre.

Sarah-Jane Laing: No.

Q617 Lindsay Roy: Okay; thank you. Commentators have said that Scotland has “the most concentrated pattern of private ownership in the world” and that some of the statistics are “staggering.” To what extent do you agree with these conclusions?

Sarah-Jane Laing: I do think that Scotland has a concentrated pattern of land ownership, particularly in the unproductive areas of certain parts of Scotland. Large-scale landholdings are not peculiar just to Scotland; it does happen elsewhere. We look at Norway, and certainly the largest private landholding in Norway dwarfs the largest landholding in Scotland. Okay, it is a bigger country. Large landholdings themselves are not peculiar to Scotland, but the concentration and pattern of land ownership is something that we recognise. Where we do take issue is that, of course, if you look at the entire pattern of land ownership in Scotland, there are tens of thousands of people who own land in Scotland of varying sizes. Certainly, as I say, our membership reflects the fact that many, many of those own landholdings of less than 450 hectares. We as an organisation are not there just to represent large-scale landowners.

Q618 Lindsay Roy: Norway seems to come up regularly. Would you accept, though, that it is the most concentrated pattern of private ownership in the world?

Sarah-Jane Laing: According to all the data I have seen, I have nothing to argue against that.

Q619 Lindsay Roy: You mentioned the tens of thousands who engaged in private ownership. Where does that figure come from?

Sarah-Jane Laing: It comes from discussions we have had with the Land Register. I wish I could provide you with something that is more accurate, but, of course, because we don’t have the complete figures that is the nearest estimation that we can provide. It also comes from the number of owner-occupied crofts, owner-occupied farms and also small holdings which exist across Scotland.

Q620 Chair: Can I just be clear though? In front of my tenement there is a 10-foot or so strip between that and the road. Am I, therefore, one of these tens of thousands of landowners?

Sarah-Jane Laing: No; I was just referring to landholdings in rural Scotland.

Q621 Chair: Right. So you think there are tens of thousands.

Sarah-Jane Laing: Yes; certainly that would be our best indication. As I say, I would love to have a more accurate figure than that and all of us in Scotland would like to see greater coverage by the Land Register so we can have a clearer picture.

Q622 Lindsay Roy: I am sure we will pursue that later. Would you accept that 0.025% of the population owns 65% of the privately owned land?

Sarah-Jane Laing: Yes, I believe that is the figure.

Q623 Lindsay Roy: That seems quite bizarre in terms of the values that underpin, we are told, the Scottish Government and the UK Government.

Sarah-Jane Laing: Again, it goes back to looking at what landholdings are held by that figure. As well, going back to the figures of population, because there are a number of people who are involved in the management and ownership of those properties, the figure involved in the day-to-day land management of that is much more than the figure that has been quoted, but I understand when it comes to the legal entities that own it then that figure is as accurate as I have seen.

Q624 Lindsay Roy: I think you said you had 2,500 members; is that right?

Sarah-Jane Laing: Yes.

Q625 Lindsay Roy: How many of them are small landowners?

Sarah-Jane Laing: Half of them own less than 450 hectares.

Q626 Lindsay Roy: The top 10% own what size of estate?

Sarah-Jane Laing: Again, there are large estates that own in excess of 100,000 acres.

Q627 Lindsay Roy: Are they main clients of yours?

Sarah-Jane Laing: No; every member is the same. We represent members' interests; so we are a membership organisation representing the interests of all our members.

Q628 Lindsay Roy: They are all the same no matter the size.

Sarah-Jane Laing: Yes. Certainly from the advice provision that I provide, if someone phones me to ask for information on energy efficiency or fuel poverty for their property, it does not matter to me whether they have one rented house or 100 rented houses—they receive the same service from us.

Q629 Lindsay Roy: So there is not a disproportionate amount of your time spent with major landowners.

Sarah-Jane Laing: No, I can guarantee that is not the case. In fact, to be honest with you, most of the large owners have their own professional advisers, so I would say a disproportionate part of my time is actually providing advice and information to the smaller landowners.

Lindsay Roy: That is very helpful; thanks.

Q630 Chair: Could you give us a breakdown of the different scales of ownership represented in your membership—not necessarily just now but at some stage?

Sarah-Jane Laing: I am more than happy to do that.

Q631 Sir James Paice: Can I just add a rider to that, Mr Chairman? In this conversation we have just been talking hectares or acres. Have you done any evaluation, or could you in the work the Chairman has just asked you to do, relating it to land quality or land value, because we are obsessed with these huge holdings, most of which are wrong.

Sarah-Jane Laing: Yes.

Q632 Sir James Paice: I am sure the figures will be different but I don't know to what extent you are able to quantify what the differences would be if you actually assessed them by value or land quality.

Sarah-Jane Laing: Yes, certainly. We should be able to provide some information from our own member database and also from recent surveys which will be able to show you the land classification in terms of the holding and certainly look at the productivity and the land class. So, yes, we could certainly look at that, because, as you say, it is quite distinct from just the absolute scale.

Q633 Graeme Morrice: I wanted to touch on the topic of beneficial ownership trusts and tax planning. You may be aware that the European Union Council, on 22 May, made a pronouncement in relation to tax fraud, tax evasion and aggressive tax planning. In reporting back to Parliament, the Prime Minister, on 3 June, made reference to this and confirmed—I think it was following a question from the Chair—that a register of beneficial ownership would be compiled. Do you agree that the people of Scotland are entitled to know who the beneficial owners of land are so that they are aware of the real faces behind nominee and offshore companies in tax havens?

Nick Way: The issue of the European Union law, of course, is not specific to ownership of historic houses or land. So far as who the owners are and who the people who are in control of these places are, it is usually pretty clear who is running an historic house. Certainly, for the majority of our members who have websites, it is usually even clearer because there will be a description—usually—of the people who are in control of that historic house. The taxes that—

Q634 Graeme Morrice: Is it about the owners or the tenants, if there are indeed any tenants, or both, because the question is about the beneficial ownership.

Nick Way: It might be an outright owner; it might be the lifetime beneficiary of a family trust who might be living in that house. In terms of who we talked to, who gets the advice from us and who represents that house, it is generally the person living in that house. The tax is paid according to UK law. You mentioned offshore and tax havens.

Graeme Morrice: Yes, absolutely.

Nick Way: I wouldn't necessarily have comprehensive information on the existence of foreign ownership of historic houses in the UK, but, from what we do know, I am only aware of a handful of cases where the ownership is offshore.

Chair: We were asking, really, about your view in principle.

Q635 Graeme Morrice: It is not so much about what you know; it is about whether that information should be transparent and that we should all know about it.

Nick Way: Well, the ownership might be transparent, and usually it is. I would have thought that, generally, what we want to get across to the public is who is in control of that historic house and what they are doing with it.

Q636 Chair: Certainly, when I asked the Prime Minister and when this has been raised subsequently, the issue has been the question of having a register of beneficial ownership. Now, are you opposed to that?

Nick Way: No, we wouldn't be opposed to that in principle because this is an aspect of law which runs across all ownership of all sectors of the economy—

Chair: And Sarah-Jane as well.

Nick Way: —so it is not specific to historic houses. I don't think we would see a specific impact on historic houses different from the rest of the economy, so I doubt that we would get involved.

Q637 Chair: Sorry, you doubt you would get involved. If it is agreed that there is going to be a register of beneficial ownership of land in Scotland, then you would undoubtedly be involved.

Nick Way: We would undoubtedly comply with that.

Q638 Chair: And you are not opposed to that.

Nick Way: We are not opposed to—well, we have been monitoring the issue and we await to see what happens, but we are not lobbying against it.

Q639 Graeme Morrice: Are you in favour of it, though? You may not be against it, but, at the end of the day, if it became the law obviously you wouldn't want to break the law. Are you in support of something that the EU Council, the Prime Minister and it seems everyone else is in favour of too?

Nick Way: We are not sure what it would add in terms of public knowledge of the way that these places were controlled and taxed.

Q640 Graeme Morrice: But is there not a problem that this is getting raised by the EU, the UK Parliament and others, so is there not a question about transparency? Some people believe there is not enough transparency or else we wouldn't be suggesting this is something we should be doing. While you are thinking, maybe Sarah-Jane could come in on this.

Nick Way: Can I just give you one more answer and then I will pass the floor to Sarah-Jane? I will be hesitant before I go into the law on trusts because I don't want to go into areas in which I am not an expert.

The law on trusts has changed in recent years. There are still a number of instances of trusts which were set up under the previous law where there is a lifetime beneficiary of a trust. In that case it is easy to say, through the lifetime, who that beneficiary is, and it is usually the same person as the person living in the house. Therefore, it is transparent and I think we would be neutral about whether that was required by law or not because actually we are saying who that person is. Under trusts as they are set up now, there may be a

discretionary trust with the scope for allocating assets or the proceeds from assets to more than one person. If the law were to change on that, that does not present a greater or lesser issue of transparency in our sector than anywhere else. I am not sure, because I am not a lawyer, whether it would result in the name of the owner changing in our membership directory or in the Land Registry for that house. It might still be called the “so-and-so trust,” but that is not for us to work out because we are more than happy to comply with the law of the land on trusts.

Q641 Graeme Morrice: Sarah-Jane, do you want to respond to this issue?

Sarah-Jane Laing: Yes. As an organisation, we think that visibility and transparency are vital components to empower communities. Like Nick, when we first considered beneficial ownership, we were trying to understand what it was that communities wanted to know in relation to land ownership. Indeed, we deal with a number of requests from communities on a weekly basis. Like Nick said, it is about who makes the decision; who can you speak to about a piece of land; who can you speak to about planning? I have never had a question about beneficial ownership so I have never had to take that—

Graeme Morrice: Until now.

Sarah-Jane Laing: Yes. Someone from a community has never phoned up and said, “Who is the beneficial owner?” So I have never had to deal with that. Again, when we looked at the land registration and Land Registry with the keeper, we talked about it at some length with the keeper and I was saying, “What does beneficial ownership add in terms of land use policy?”, because, of course, that is more or less what we are about, and, as long as you are visible and transparent about who is making those land use management decisions, that for me was the overriding factor. We have no objections at this time to any moves to have a register of beneficial owners in Scotland. I don’t have a proposal in front of me, obviously, to look at what the details of that would be. We may have some views on how it would work, but, certainly, when it comes to visibility and transparency, as a member organisation, I have to say it is in our interests to know who we are representing.

Q642 Graeme Morrice: Do either of your organisations have any members whose ownership is registered in tax havens that you are aware of?

Nick Way: I am sorry if I am repeating a little bit of what I said earlier because we wouldn’t necessarily have comprehensive information, but from what we do know I am aware of only a handful, out of the 1,550, which have ownership offshore. The majority of owners are individuals, families, unincorporated businesses—that is what is most common—operating within UK tax law.

Q643 Graeme Morrice: Presumably, the purpose of using tax havens is to try and accrue some fiscal advantage to the beneficial owner. Do you think that is an acceptable practice?

Nick Way: It is an interesting question, not least because in the eight and a half years I have worked for the HHA I have not yet had an inquiry about offshore ownership for taxation. But your question was, is it reasonable? We would advise our members on—

Graeme Morrice: It was whether it is acceptable.

Nick Way: Acceptable. We would advise our members on the operation of the tax law within the UK. Our advice is given by professionals, and I think they would tell me that they would only advise on any schemes which have been approved by HMRC.

Q644 Chair: That is a don't know then, is it? You are being asked a fairly clear question and you have diverted off into a number of other issues. Can you just give us a clear answer about whether or not you believe that people in Scotland ought to know who the real faces are behind nominee companies or behind ownership which is concealed in tax havens?

Nick Way: I would say, Chair, that they generally do know who the real faces are managing and living in historic houses they represent.

Q645 Chair: You keep trying to blur this distinction. Managing and owning, it seems to me, are different. Ultimately, the owner tells the manager how to manage on his or her behalf. While the manager might, yes, be the face, ultimately the strings are being pulled from elsewhere. Is it not reasonable, in these circumstances, that people in Scotland know who the ultimate owners are and that those owners should not be allowed to hide behind either tax havens, nominee companies or some other structure?

Nick Way: The members that we advise—the ones that I have been advising—have been those who you say are taking those decisions. They are the owners in terms of the decisions they are taking. They are not taking decisions—

Q646 Chair: You know who they are; so there is no problem with them.

Nick Way: No problem.

Q647 Chair: Those with whom there is no problem, by definition there is no problem. The issue comes up when there is a concern that people are not known. It is pretty clear that you are not going to tell us, but we were asking you whether or not you were supportive of any moves to make it the law that these people had to be identified.

Nick Way: Just to clarify, we have been neutral on that. You said we would not support. We have been neutral on that, and if that position changes we will certainly let you know, but I don't envisage that. I am hard-pressed to think of any of our members in Scotland where the owner is not known to the public.

Q648 Lindsay Roy: Can you explain why you have taken this neutral position?

Nick Way: We would not take a view on a lot of legislation that goes through this House because we advise and are active on issues which have a specific impact for our membership constituency of historic houses. For example, if there were laws going through on fire safety, we would only be concerned if they had a different impact on historic houses from the general impact. If there were laws going through on income tax, we might not have a view because it might be the same for everyone, but it would depend on whether there was a different impact for our members from other sectors of the economy.

Q649 Lindsay Roy: But you are also neutral on naming those who own the estates—is that right—as opposed to managing?

Nick Way: I was saying that I thought that, generally, they would be known in Scotland.

Q650 Lindsay Roy: And if not?

Nick Way: As I say, I was hard-pressed to know that situation, but, if not, then it is for the law to decide and we are not taking a view. If the law changes, then, obviously, we would follow that.

Q651 Chair: Sarah-Jane, you have had plenty of time now to work out what your answer is going to be to these questions. What is your line?

Sarah-Jane Laing: Because I am not a tax expert, I probably don't know enough about tax havens and offshore accounts to understand exactly how they work and what benefits they may provide. We will have some members who will own either all or part of their Scottish landholdings in an offshore account. That is something which I have looked at.

Q652 Graeme Morrice: Can you quantify that and say who they are? I am not asking you to give that information now, but do you have that information?

Sarah-Jane Laing: I won't have it in its entirety because, again, it may be part of their landholdings. We may have a member estate, but part of their landholdings or part of their business holdings may be within this particular taxation structure. I will know some but I certainly won't know all.

Q653 Graeme Morrice: There are some assumptions there. Earlier, we were talking about the principle of transparency and maybe it was suggested that it was not needed. I was arguing that perhaps it is, and it seems to me that you don't seem to have all that information.

Sarah-Jane Laing: I don't have all information on exactly—we don't advise members on governance and we don't advise members on tax beyond general tax compliance and things like VAT and RTI. I would not get involved in the governance and taxation structure set-up of an individual member, just like the NFUS wouldn't get involved in the taxation structure of a family farm, but that does not mean that I am not aware that some people will use this tool within Scottish landowners. Yes, I am aware that some people will use such a tool within Scottish retail or Scottish property development. I know it happens; I know it exists.

Q654 Graeme Morrice: Obviously, no one is suggesting that you are there to provide advice and assistance to your members when it comes to these fiscal advantages. I suppose the point is, do you have a record of who is in and who is out? But you are saying that, anecdotally, you are aware of some but you don't have necessarily a full list of everybody.

Sarah-Jane Laing: If you took a fictitious estate—Highland Estate Incorporated—its membership would be from the Highland Estate Incorporated. It may have, within that ownership structure, a number of different elements. It may hold residential properties and others. For its membership, it is the estate in its entirety that would be a member of ours. If they needed to speak to me about their housing, it may be someone who is involved in the ownership and management of the housing, but the membership of Scottish Land & Estates is the estate in its entirety.

Q655 Graeme Morrice: Going back to the question I asked Nick earlier about whether you find it acceptable, as I said earlier, people use tax havens for fiscal advantage and there is a cost to that in terms of the public purse. Do you think that is an acceptable practice?

Sarah-Jane Laing: We have been quite categorical in saying that we cannot condone any form of tax evasion, if that is what is being used.

Q656 Graeme Morrice: Tax evasion is illegal anyhow, but aggressive tax avoidance?

Sarah-Jane Laing: There is a big difference between aggressive tax avoidance—again, it is not something that we as an organisation promote—to tax planning, which every business is involved in.

Q657 Graeme Morrice: I hope you wouldn't be promoting it.

Sarah-Jane Laing: No.

Q658 Jim McGovern: What is the difference?

Sarah-Jane Laing: I think if you look at tax planning—

Q659 Jim McGovern: What is the difference between tax avoidance and tax management?

Sarah-Jane Laing: Tax management, for me, is a business involved in everyday looking at how aspects of their business works, what reliefs they can access, how they can best plan their investment, when they buy their plant machinery, where they dispose of assets.

Q660 Jim McGovern: How can they avoid paying it legally?

Sarah-Jane Laing: Not how they avoid paying it legally. If you are a small landowner with limited assets, it might be better for you to sell off a plot of land one year than it might be to sell it off the next year, depending on other income. That is tax planning. I have to say, when it gets to the stage when you are looking at complete avoidance of tax, then that is something entirely different and that does become aggressive tax planning. Again, I am neither a tax lawyer nor a tax accountant, so, for me, in terms of taxation policy, taxation policy is there to drive business investment or it is to deliver public policy. If you are looking at investment in farming and you want people to buy plant machinery or to deliver things, you have tax reliefs and that is what tax planning is. Aggressive tax planning is something entirely different.

Q661 Jim McGovern: Tax relief and tax avoidance are obviously entirely different, aren't they?

Sarah-Jane Laing: Yes, but tax planning to take advantage of tax relief could be seen by some to be construed as tax avoidance.

Q662 Graeme Morrice: Do you have any figures on what proportion of your members own their land or assets via a trust?

Sarah-Jane Laing: No, I don't have that figure.

Q663 Graeme Morrice: Is it that you don't have it to hand or is it that you don't have it back at the office?

Sarah-Jane Laing: I could see what we have back at the office. I certainly don't have it to hand. Again, it goes back to the fact that some may hold a portion of their landholdings. They may own the house but not the land in trust, so it is not straightforward.

Q664 Graeme Morrice: I accept it is not straightforward, of course, but—

Sarah-Jane Laing: I could certainly see what we could provide from our membership database and our recent membership survey, yes.

Q665 Graeme Morrice: Could I ask the same question to Nick?

Nick Way: The same would be true for us and the offer would be the same as well.

Q666 Graeme Morrice: Can I just finally, Chair, ask Sarah-Jane this? You say in your written evidence—and I quote—there “may in fact not be any tax advantage at times in holding a trust.” Would you say that the majority of those estates owned by a trust will derive a tax advantage?

Sarah-Jane Laing: I think some do. As I say, when we canvassed some members, the trusts that they were talking about were established back in the 1970s. My understanding, from speaking to them, is that the tax advantages which they were able to access at that time are no longer there. I have to say two of the estates that I spoke to had trusts which were set up in the late 1970s, so they had spent numerous hours and money trying to get out of those trusts recently. I don't think that all trusts that exist in Scotland at the moment are able to access tax advantages.

Q667 Graeme Morrice: But there are some.

Sarah-Jane Laing: There are some in my understanding, yes.

Q668 Graeme Morrice: Can you quantify that in terms of the proportion that do and the proportion that don't?

Sarah-Jane Laing: No, I couldn't give you an exact figure.

Q669 Chair: Could I just be clear then? We have been considering recommendations that we are going to make shortly, and one of those is that there should be a land ownership register in Scotland which identifies beneficial owners of all land and that people should not be able to hide behind nominee companies or overseas tax havens or the like. Would you oppose that?

Sarah-Jane Laing: I wouldn't oppose complete coverage in Scotland of the Land Register. I am struggling to think about how it would impact on foreign investment, because, of course, you do have people who don't live in Scotland who have landholdings all over the UK. If that would mean that they would have to have a company which is based in Scotland or in the UK to allow them to—

Q670 Chair: We are not at the moment suggesting that.

Sarah-Jane Laing: You wouldn't need that.

Q671 Chair: We are suggesting that, if they are registered as Ukrainian Navy Limited, we should actually know who owns that. Who is it that owns Ukrainian Navy Limited or Cayman Tax Havens Limited? Rather than having a nominee company, who is the individual who is the ultimate beneficial owner of that? We are suggesting or we are considering suggesting that that be a recommendation and the Scottish Government or whoever implements that. I want to clarify whether or not that is something that you would oppose.

Sarah-Jane Laing: No; we would support visibility and transparency of ownership.

Chair: Fine; thank you.

Nick Way: Might I just add to that? We would not oppose it. May I ask, Chair, whether that would apply across the whole economy to all owners of assets, whether that company was an historic house or was a factory or a manufacturing business?

Chair: Okay.

Q672 Sir James Paice: Can I turn to a specific tax, namely, inheritance tax, on which we have had a lot of debate, both in written evidence and so far in oral evidence, representing different viewpoints. Could you both, in your own way, describe to us how you see the current agricultural property relief impacting on the value of Scottish land?

Sarah-Jane Laing: There are many factors which impact on the current value of Scottish land. APR is probably a very minor one, certainly from discussions that I have had with RICS and others, but that doesn't mean that it is not a factor. I don't think you could put a tangible or a notional sum on what impact APR has on the value of a hectare of Scottish farmland. Any tax relief or any tax benefit that comes with that will be a factor but it won't be the defining factor; it will be something that is taken into consideration in the value.

Nick Way: Our expertise is more on the house than it is on the land surrounding the house. If APR were to disappear but business property relief were to stay, then I suppose we might expect some effect on the price of agricultural land because the tax of different parts of the economy was being altered because one sector was being treated differently from another, so there could be an effect. As to how much it would be, I wouldn't have anything to add to what Sarah-Jane has said. Of course, the house itself is not subject to APR and usually not BPR.

Q673 Sir James Paice: In your evidence, Nick, you said that "reliefs from inheritance tax for businesses are common in the developed world."

Nick Way: Yes.

Q674 Sir James Paice: I am sure you have done your homework, but we have also had other representations to say that actually that is not the case and, to quote Professor Cheshire, the UK is an outlier in this respect. Can you just explain why you maintain that such reliefs are common?

Nick Way: I can explain why I think they are common. Such reliefs are put in place principally to facilitate the continuity of those businesses over time, and so, in principle, there is no philosophical difference between there being an agricultural property relief for an

agricultural business and a business property relief for a non-agricultural business. They have traditionally been taxed separately, but, in terms of the principles of that, they would be similar—so the reasons for having the relief would be similar.

Q675 Sir James Paice: Why do you think they are common throughout the developed world, to use your phrase?

Nick Way: Because Governments, so far, have wanted to facilitate that continuity to encourage transfers of ownership, if it is a family business, when the owner becomes too old to manage it as well as a successor could manage it, and so that money is not taken out of that business at the point of the succession so that it can continue to function efficiently as a business.

Q676 Sir James Paice: From what you both say, where your answer to my question was there might be some effect but neither of you seem to think it is very significant, if, as has been suggested by a number of other witnesses, agricultural property relief was abolished but farmers would be entitled to business property relief under the existing rules, can we take it, therefore, that you would not be that concerned about such a tax change?

Sarah-Jane Laing: The reality is that, because of the diversification of a number of agricultural businesses in the last few years anyway, they have moved BPR to APR. That is especially true when you look at the base of the economy in Scotland; the farming sector has moved to agritourism, renewables and others. I don't know what impact it would have on those who are solely APR or agricultural-focused, but certainly for the majority of our membership it would not be a major concern for a move from APR to BPR.

Nick Way: While it is not certain that all agricultural land could be eligible for business property relief, then I think we couldn't say that we would be relaxed about the disappearance of APR.

Q677 Sir James Paice: Okay, but you both seem to agree that there wouldn't be any significant drop in the value of land.

Nick Way: I suppose it might vary according to where the land was, in the same way as the price varies. So for the most desirable land, I suppose, it might have a bigger effect.

Q678 Sir James Paice: Sarah-Jane, you told us earlier that your organisation represents 2,500 landowners, but in terms of the larger estates some of them will be traditional family estates that have been in the same family for generations—many of them for hundreds of years. Others, though, as we know, will be in the hands of their first-generation owner. Do you see any difference in the way that those two types of owner see the whole issue of the value of their land and their estate? Are they viewing it as a financial asset, or do they see it as a possession that is their responsibility to continue?

Sarah-Jane Laing: The majority of estates that are inherited are viewed very much in terms of stewardship. That is the one word which comes through time and time again when you have discussions with them. However, that does not mean that people who are first-generation estate owners don't also have a stewardship feeling. In fact, some of these people who are first generation may go on to be subsequent generations of estate owners. There are some people who buy land in Scotland and elsewhere, as they buy other assets, who view it

purely as a commodity. I have to say that those people don't tend to be members of Scottish Land & Estates because they don't tend to be looking for land management advice. They are not looking for long-termism; they are not looking to understand what the impact is of future legislation. That does not mean that people don't buy land as a commodity.

The one thing that there is no direct correlation from, and it get backs to ownership, is that there are many absentee owners for whom stewardship is the overriding reason that they feel they own land in Scotland. Certainly, if you look at some of the ones who are driven very much by environmental motivations, they are not looking for an increase in capital value. They are not seeing it as an investment commodity. It is to deliver something which they very much care about. The motivations are many and wide, but there is no denying that there will be some people who purchase land as a commodity, as you would purchase a house, a factory or indeed a start-up business.

Sir James Paice: Okay; thank you.

Q679 Chair: Presumably, since motivations are enormously varied, it would not be true to say that all people who have bought or owned land would be adversely impacted seriously by the abolition of some of these reliefs.

Sarah-Jane Laing: No, it is not universal. Not everyone who owns land will utilise such reliefs. Not everyone would be impacted, so it would really depend on the land use and how they are structured.

Q680 Chair: Generally, if they abolished most of them, then the impact would be relatively restricted.

Sarah-Jane Laing: When you say "most of them," which ones are we talking about? If you are talking about abolishing APR, and you are still running farm businesses and agricultural land-based businesses and you can access BPR, then the impact of abolishing APR I think is fair enough. If you are also looking at other land-based or agricultural-based taxation relief such as entrepreneurs' relief and various other ones, they do start to have an impact on investment and viability.

Q681 Chair: That is right, but many of those are applying to businesses even if they are not agricultural businesses.

Sarah-Jane Laing: Yes.

Q682 Chair: That is a distinction, isn't it?

Sarah-Jane Laing: Yes. If you are going to treat land-based businesses equally with other businesses, then I have to say personally I think it is very hard to argue for the continuation of a distinct APR from a BPR.

Q683 Pamela Nash: You have mentioned several times in this inquiry so far that Scottish farmland has risen in value faster than gold, or more than gold, in the last decade. Is this something that you have witnessed impact the rural economy in Scotland? I am looking at Sarah-Jane, but I don't know if there is anything you want to add to that.

Sarah-Jane Laing: Because of where we are with the common agricultural policy, there is not a lot of land changing hands, as people wait to see what has happened, so the scarcity of land has been a big issue. I am down in the Borders where there have been some sales and, you are right, the price and value of that land has rocketed. The increase has not been blanket across the whole of Scotland. Land values in some areas, for farmland, are still very low in the marginal areas in the north-west, but, yes, there is clear evidence that there has been a significant rise in value of farmland. It is linked mainly to the productivity, but, as I say, again it is supply and demand. The scarcity of this land has had a huge impact on value.

Q684 Pamela Nash: In areas like the Borders, which have seen the value of their farmland rocketing, I know you have talked about the cause of that, but what has the impact been on the local community and the economy there?

Sarah-Jane Laing: Goodness; I am not sure that I can think of direct impact on the community. There are some farmers who have sold their farms and who have made quite a lot of money. They have tended to retire and build their own house so there has been a knock-on impact in terms of small-scale construction firms. There have been others who have sold fields and have been able to invest in bigger sheds, better fencing, better infrastructure. Where farming is strong, there is always a knock-on benefit for the rural economy. It is not that there have been lots and lots of land sales in the Borders where this wealth has suddenly either entered or left the area. A buoyant agricultural sector is always going to benefit a rural area.

Q685 Pamela Nash: Have you seen any evidence, though, of people being priced out of the market who may have farmed the land there? Have they left that land?

Sarah-Jane Laing: There are two things. We have seen big farmers get bigger. In the owner-occupied sector the guys who are quite big already and who have that base behind them are buying up smaller; so, yes, there is an issue there. There is a problem in terms of new entrants being able to access the market, but that is linked to another issue that we may touch on, Chair, which is slipper farming. You do have small owner occupiers who are sitting on farmland but possibly not actively farming because they are seeing this rise in value. If you are 70 and you know realistically you have this asset, you think it may still continue to rise and you are receiving single farm payments because of your historic payment date but you are no longer farming, then there is a lack of churn in that sector. So, yes, there are lots of impacts.

Q686 Pamela Nash: Am I right in saying that would be more of a cause rather than an impact, or is it a cycle, so would that increase what is available?

Sarah-Jane Laing: It is a cycle, which means if those guys are sitting on it they are the ones which do come up. There is much more demand for that. That lack of churn by people looking for continued uplift in the agricultural land value is both a cause and also an effect.

Q687 Sir James Paice: When you referred to the buoyant farming sector just now, how much of its buoyancy do you attribute to the CAP? In other words, if there was no CAP or no single farm payment, what would the difference be?

Sarah-Jane Laing: Again, it depends on some areas, how we use CAP and how we use it going forward. Scotland will continue with money for less favoured areas, and that is very much about income support. If you look at the fragile communities, if it is not underpinned by CAP, if you pull agriculture out of the equation, those areas would be more fragile than they are. The guys who are delivering productive farming, food security, also linked to environmental security and maybe also looking at rural development—because, of course, there are the Pillar 2 funds; it is not just about the Pillar 1 funds—are employing people and they are using local businesses or buying local services. Without being underpinned by CAP to some element, I do think that the viability of some of those farm businesses would suffer—in fact the majority of those farm businesses.

Q688 Sir James Paice: How would that feed back into the value of land?

Sarah-Jane Laing: It would be a factor, but because we have not moved to an area-based payment it is quite hard to say. Because of our historic reference period, we have small farms with big single farm payments but we have large farms with hardly any single farm payment, so it is actually quite hard to equate the relationship between an area-based single farm payment and the value of an area farmland in Scotland at the moment.

Q689 Sir James Paice: I am sorry, I have hijacked this, Mr Chairman, but you both suggested in answer to my questions that tax reliefs are not a major factor on land values. I am trying to get to the bottom of what is, or is it simply the issue of scarcity and there is not making any more of it, as somebody said?

Sarah-Jane Laing: With any subsidy or any tax relief there will be factors. When it comes to farmland, certainly in the Borders or north-east at the moment, scarcity is the main factor in terms of value, but you can't deny that subsidies and reliefs can have an impact on the value.

Q690 Sir James Paice: But in the north-west-west, where agriculturally it is much poorer, you are implying that the agricultural value is much less.

Sarah-Jane Laing: Yes.

Q691 Chair: One of the points you mentioned there was referring to sections of the CAP as basically being about income support. What is the scale of CAP in Scotland that you would identify as being mainly income support?

Sarah-Jane Laing: Goodness, we have not bottomed out exactly how much is going to go to the less favoured areas, but the Scottish Government have been quite clear that a significant portion of our Pillar 2 money—Chair, I will check exactly what the figure is, but that really is. It is income support for those operating in fragile areas, but I am happy to clarify that figure.

Q692 Mike Crockart: I have to say I am a little confused as to what the picture is of land ownership in Scotland because you want to paint it as a rosy picture of a group of owners who are really just owning land mainly as a stewardship. It is a heavy burden but somebody has to do it. They are not looking for asset growth but asset growth of 10% to 11%. It is not what they are looking for but, of course, it is welcome, and that then causes there to be a small number of these dreadful people who just look on it as being a physical

asset. Is that really the picture that you are trying to paint—that the vast majority of landowners are in this for the best possible reasons and it is just a small number who are looking at this as a physical asset?

Sarah-Jane Laing: I certainly didn't say that people who are looking to invest as a commodity are all dreadful. In fact, I said that there is no correlation between those who invest and bad management. They can also be very driven by stewardship and environmental reasons even if they are quite happy to receive an uplift in value. There is no denying that there are instances of bad practice by landowners in Scotland—we have never denied that—but, certainly, the picture which is painted of every landowner only out to get what they can from the landholding that they own is not reflective of the truth. The picture that is often painted of every community and landowner being at war or involved in some kind of tension is not the case. It is certainly not all rosy but it is certainly not all bad, and it is certainly not a spectrum where you have community owners at one end as a sort of utopia and the bad private landowners at the other end. It is a pattern of land ownership. There are benefits in all forms, and there is bad and there is good. My view is that there is definitely more good than bad.

Q693 Mike Crockart: I was not portraying it as being a division between communities and owners. I was trying to get you to give a view on what proportion of landowners you see as just being in it for the stewardship and what proportion are just in it for the asset growth.

Sarah-Jane Laing: Again, if I can talk about our membership, we are quite clear that as an organisation we stand for good stewardship, so if you join our organisation you know what you are signing up to. As we said, we represent 2,500 landowners in Scotland. There are many more. I couldn't begin to tell you what their motivations are because I don't engage with them; I engage with my membership.

Q694 Mike Crockart: If it is all about good stewardship, what you said in the evidence that you submitted was: "It is essential to underline that the entities referred to by the Committee as 'landed estates' are in actual fact land-based businesses." Landed estates comes as the old-fashioned notion of patronage and stewardship. Land-based businesses feel much more like companies who are in it to maximise value and return. Can the two exist side by side?

Sarah-Jane Laing: They can. Again, when we talk about land-based businesses, I am of course not talking about businesses which always make a profit. Businesses is about how an estate can be run. That does not mean that you can't be altruistic; it doesn't mean that you are always chasing the maximum profit. It also could be that you are able to look at a commercial aspect such as renewables or commercial units, which allows you to then reinvest in other areas. When we talk about land-based businesses, we are talking about integrated estate management, but it is very much run on that business structure rather than in an old paternalistic way. It is about throwing your money away down the drain by having a highland estate. It is about how this can benefit the rural economy, and, as I say, that is what the heart of certainly our membership is about.

Q695 Mike Crockart: Moving on from that then, in a tax system, agricultural land, forestry land and shooting estates can be treated as business assets, exactly in the way that you are talking about, for the purposes of inheritance tax relief and capital gains tax relief. If you are talking about it as being much more of a business rather than a landed estate, patronage, stewardship—all those sort of things—in those circumstances do you think therefore it is logical that they are not business assets for the purposes of the non-domestic rating system?

Sarah-Jane Laing: Non-domestic rates is an interesting one. Again, I tried to go back 25 to 30 years as to the reasons why the exemptions were there in the first place. I can't tell you why they were exempt and, if I am entirely honest, I can't come up with a coherent argument as to why that exemption should continue, apart from when I spoke to some of the purely agricultural estates, because we do have some who are not diversified. They were on about the rateable value of agricultural land, how fragile their agricultural businesses already are and what the impact might be, but, because we couldn't see what the rateable value would be, we couldn't understand what the impact would be on their business. I don't know why those exemptions were put in place and at present I don't have an argument as to why those exemptions should continue.

Q696 Mike Crockart: If we are treating it as a business, then it should be a business across all the tax system and not just part of it.

Sarah-Jane Laing: Yes, because you are going to be able to access small business relief. The Scottish Government have a number of things. If you are going to access those, there should be equity. I will be honest—that might not be music to some of my members' ears, but, if you are going to be looking at estates as land-based businesses, then there does seem to be equity in treating them the same as other businesses.

Q697 Mike Crockart: Nick, do you have a view on this as well?

Nick Way: Our primary responsibility is for the house, the garden and the curtilage up to the wall, so I would defer to Sarah-Jane on matters of taxation of land and sporting rates beyond the wall.

Q698 Chair: Within the wall, when the houses are run as businesses, they should be treated the same as businesses for business rates.

Nick Way: If they are run as businesses, they would be treated in the same way for business rates, yes.

Q699 Mr Reid: One of the Scottish Government's policy aims is to diversify the pattern of land ownership in Scotland. What are your views on that policy?

Sarah-Jane Laing: We have been quite clear that we would not support artificial measures to create diversification, but, as we said earlier, we are very supportive of communities and others taking advantage of their aspirations to own land, which then results in diversity of land ownership.

Q700 Mr Reid: What do you mean by “artificial”?

Sarah-Jane Laing: Compulsory purchase of land for communities which is included in the Community Empowerment Bill consultation, which is being considered at the moment.

If a community wanted to access an area of abandoned and neglected land, they would be able to compulsorily purchase that. That would be an artificial measure of diversity of ownership.

Q701 Mr Reid: You said if the land is abandoned or neglected.

Sarah-Jane Laing: With the Community Empowerment Bill, the definition of “neglected or abandoned” has been left open at this time. That will be a discussion that we have as we go through the Bill. Our concerns are very much when you look at the example which was given, which was a whole estate. It would be very hard to say that a whole estate had been neglected or abandoned. I do think that, if you are looking at small plots of land, there already are compulsory purchase powers there for a local authority. “Neglected or abandoned”—the way it was described in the consultation—was so subjective that we oppose the proposals as they stand at present.

Q702 Mr Reid: You only opposed them because you were unhappy with the definition. If there was a definition of “neglected or abandoned” that you were happy with, would you then be supportive?

Sarah-Jane Laing: There are two points. There is, who has the power? Our view is that, if you are going to have a very clear definition of neglected and abandoned land that should be compulsorily purchased, that should be compulsorily purchased by the local authority. That could be on behalf of the community. What we did not want to introduce was another compulsory purchase power outwith the local authority one which already exists, so there are two elements there.

Q703 Mr Reid: Let me get this right. If the community wants to buy the land, are you saying as long as they get the local authority’s support then that is fine?

Sarah-Jane Laing: If we take an example which I am aware of, a small town developer bought a building plot a number of years ago. It is never ever going to be developed. It is sitting there going to rack and ruin, and I think I am right in saying that the company which owned it has now gone bust. If the community wants to own that land, then, yes, the local authority should be allowed to compulsorily purchase that and either lease it or transfer it to the community. Indeed, I am on record in the Scottish Parliament talking about empty assets on a certain island in Scotland about which I felt that the time was right for the council to use those measures which it already has to compulsorily purchase empty properties, to provide much needed housing on that island. That measure is there. We had two issues—one which was introducing another compulsory purchase power to another group of people and the loose definition of neglected and abandoned land.

Q704 Mr Reid: In your consultation process did you come up with any definition of “neglected or abandoned” that you would like to see?

Sarah-Jane Laing: We are much more linked to the definition used for derelict urban land. That is what we had suggested, but we are trying to see how that could be used in a rural context.

Q705 Mr Reid: Your original answer was that you were supportive of diversification as long as there weren't artificial means.

Sarah-Jane Laing: New artificial means, yes.

Q706 Mr Reid: I am still trying to get what you mean by "artificial."

Sarah-Jane Laing: There are means which exist in Scotland at the moment to diversify land ownership. Most of those are through the willing seller route. We think that those should be increased. We think people should be encouraged to have dialogue with the communities if they are thinking about selling land and that communities should be, wherever possible, allowed to realise their aspirations to purchase land from willing sellers. We also think that there are cases where certain powers that already exist in Scottish Ministers or local authorities to deal with compulsory purchase could be used in certain circumstances. What we are not looking for is the creation of any further artificial measures.

Q707 Mr Reid: Say a landowner owns an estate or woodland and is not bothering to manage it at all but is just letting it grow wild, and the community comes along and offers the market price to take it over but, for whatever reason, the landowner refuses. Is that a situation where you think the compulsory purchase power should be used?

Sarah-Jane Laing: Are you talking about amenity woodland or productive woodland, or does it not matter?

Q708 Mr Reid: Just in general. If a landowner was just neglecting their land but unwilling to sell and the community was willing to buy, is that a situation where you would think the power should be used?

Sarah-Jane Laing: If there was clear evidence of absolute neglect for an area of land, then there would be a case for considering the power—for local authorities to step in. If you are talking about the management of amenity woodland which is not to its full capacity—someone described it as "someone's scrubland is another man's meadow"—I think we have to be very clear as to what the definition of neglect is. If there is clear neglect, whether it is property or land, then my understanding is that local authorities already have that power to act in the public interest.

Q709 Mr Reid: Nick, do you have any views on diversification?

Nick Way: Forgive me, I know more about English legislation, but it is my understanding that in Scotland there is the power—Sarah-Jane knows more about it but I recognise it—for local authorities to compulsorily purchase a built property which has been subject to a period of neglect. We would regard that power as being sufficient.

If I could add just one thing to what Sarah-Jane has said, one aspect of compulsory purchase that would particularly concern us beyond what she has said is the prospect of the separation of the most attractive bits of the land from, say, the house, if it is a historic house, because in many cases historic houses depend upon the productivity of the land around them and any other assets that there may be on that land to help support the house. Were it to be separated, that would put the house in an even more fragile position.

Q710 Chair: Can I just clarify one point? Sarah-Jane, you seem to be particularly stressing this question of absolute neglect, and there is the issue of comparative neglect. You mentioned the question of woodland. Somebody is not making the best possible use of it and the community comes along and says, “Look, we would really work this hard for a whole variety of reasons.” Are you saying that you would firmly set your face against, in those circumstances, any compulsory purchase provision because you would stick with the idea of willing buyer, willing seller, except in circumstances where there was absolute neglect?

Sarah-Jane Laing: Yes. What we would do in that circumstance is try our very, very best to work with the landowner to enter into an agreement on a willing basis with that community. Our advice would be to him, “If you are not managing that land and there are other opportunities, then it would be in your best interests and the best interests of that land to explore them.” The final thing would be that, if he did not want to take that offer up, then we would very much pursue the willing seller basis.

Q711 Chair: But if he does not want to sell—

Sarah-Jane Laing: If he does not want to sell and you said best use—

Chair: It could be 20 times more productive.

Sarah-Jane Laing: If it could be used for allotments but he is using it for a paddock, our view is that we would not be in a position to suggest that he should be forced to sell that. We would do everything we could to try and facilitate or broker some kind of basis.

Chair: I understand that. That is clear; thanks.

Q712 Mr Reid: What are your reasons for that view?

Sarah-Jane Laing: Our reasons for that view are when it comes to best use of land, as a private individual who still owns land, you can make that land use decision within the framework within which you operate. If you own a hillside and you want to use that for sheep, you should be able to. If you want to take your sheep off it and use it purely for outdoor recreation, you should be able to make those land use decisions within the framework which exists.

Q713 Mr Reid: Even if there was a proposal from the rural community for use of the land that would create a lot more jobs in the area, you would still feel that the landowner has the right to manage it in such a way that there are a lot less jobs in the community.

Sarah-Jane Laing: I don’t think that happens, to be quite honest with you. I don’t think that we would be in a position to take that view. What we find is it is usually the landowner who is the facilitator and the enabler of the development rather than the barrier to it. There are very few landowners I know who would turn down any kind of offer from a community to work in partnership with them to deliver the benefits that you have suggested could be delivered.

Q714 Mr Reid: As you say, it is not a common situation, but even in a theoretical case where that situation did arise, would you still have the view that the landowner’s use should be paramount?

Sarah-Jane Laing: The organisation's view is that, when it comes to a situation like that, it should be on a willing seller basis.

Q715 Mr Reid: In your evidence you argued that family estates contribute to the vibrancy of rural communities. Can you perhaps expand on that?

Sarah-Jane Laing: Yes. That was largely based both on our experience but also research which was published last year by the SRUC—the Scottish Rural University College. It was a small sample. They went out and talked to a number of family-owned estates, and the findings were, from that research, that there was a positive contribution from family-owned estates. Again, looking at the cases that we included within our response and cases that we produced as a matter of course, family-owned and family-run estates of varying scales make a positive contribution to the rural areas.

Q716 Mr Reid: Did the researchers ask the community for their views or was it just the business owners that were asked?

Sarah-Jane Laing: It is a three-part research. I can send down the research findings, Chair, if that helps. SRUC looked at community empowerment; they looked at family estates, and they still have one other strand to complete. I can send that down.

Q717 Mr Reid: When looking at the family estates, who did they actually ask?

Sarah-Jane Laing: My understanding is they spoke to the estates. I think they spoke to others on the estate community, but I am not sure if they spoke—

Q718 Mr Reid: This sounds as if they asked the estates and the estates said they were doing a good job. Is that a fair assessment?

Sarah-Jane Laing: I would have to double-check the methodology of that. As I say, it wasn't our research; it was SRUC's research. Could I check that and get back to you, Chair?

Q719 Chair: The information that we had was that this alleged research from SRUC involved SRUC speaking to owners about how well they did, and then they reported that they did well and that that was the report. That does not seem to me the most academically balanced research I have ever heard of.

Sarah-Jane Laing: I will leave it up to SRUC to defend the methodology of their research, but they are a well-regarded research organisation.

Q720 Chair: They are a well-regarded research organisation, as I understand it, into things relating to the inner workings of pigs and so on, but in terms of social issues perhaps their research findings tend to reflect the membership of the governing board.

Sarah-Jane Laing: I do not think that is the case. It is Scottish Government-funded research and I am sure they were quite vigorous in assessing the robustness of the research, Chair.

Chair: We will have a look at this report then more fully in due course.

Q721 Mr Reid: The next question is for Nick. Nick, in your evidence you have argued that individual ownership of heritage, including natural heritage, offers benefits that

could not have been pursued by the public purse. Can you perhaps expand on why you hold that view?

Nick Way: In one or two ways I would say: first, the individual ownership of historic houses. Here, we are focusing mostly on economically active historic houses: i.e. those ones which are either open for day visitors or offer particular services to the public—weddings, concerts, special events, book tours and so on. They have had a very good record of being imaginative, innovative and cost-effective in providing those services to the public. Generally speaking, the Government have not necessarily wanted to take over many of those houses. They have done a splendid job—Historic Scotland and Edinburgh Castle in Stirling. The sorts of money that have gone into those places far exceeds—far exceeds—the money that would generally go into an individual privately owned house, but that is because we think the individually privately owned house is quite cost-efficient.

What individually owned houses do for the public is to provide an atmosphere, a continuity and a character that they don't necessarily see when it is publicly owned. That is not to knock the publicly owned ones, but the public keep telling us they have a special liking for houses which are still lived in, which is—

Q722 Mr Reid: Do you have research that backs that up?

Nick Way: Yes; it is backed up by the VisitBritain research of 2009, which said that visiting historic houses, castles and gardens was the most often cited reason for inbound visitors to come to the UK for holidays and the thing that they most wanted to do. It was the thing that they got the highest satisfaction from. That is not from us. Our own research is from our own 37,000 friends of the HHA and from, if I may say so in the nicest way, the efforts of the National Trust and the National Trust for Scotland to replicate, where they can, the atmosphere of an individually lived in-house. There are two reasons; one is the character and the other one is the cost-effectiveness of individually owned houses. Having said all that, in our membership we have houses that are owned by charities, which do a very good job.

Q723 Mr Reid: Have you any examples of community ownership of historic houses?

Nick Way: The nearest thing that we would have to that within our membership would be in the UK, and that would be not community owned but local authority owned on behalf of the communities. There are still some examples of that, although they are finding it hard going to run those houses, and in one or two cases they look to others to manage them for them.

Q724 Chair: Can I just clarify this? You mentioned it could not have been pursued by the public purse, but to what extent do the houses in your organisation get public financial support in some way or another, whether it is tax reliefs or some other form of subsidy? Is there no public money whatsoever going into them or is there all sorts?

Nick Way: There is no differential treatment on inheritance tax or capital gains tax generally. There is one exception to that, which is conditional exemption, which I will be happy to explain as briefly as I can in a moment. In income tax there is no special treatment. In fact, historic house businesses face a difficulty which is not faced by charitably owned

historic houses or by other bits of the economy, which is that the farming, property and historic house parts of the business all have to be taxed separately, whereas in the charitable owned house there is no inheritance tax or income tax to pay. That is a disadvantage. In terms of grants, they are eligible for restoration grants, but these have been declining and now are quite rare and we wouldn't advise a member to change his behaviour in the hope of getting a grant from Historic Scotland because the chances of getting one are very slim.

I said I would mention conditional exemption. As you will have seen, on death, there is the possibility for the people who are going to inherit that historic house to apply, if they wish, for conditional exemption from inheritance tax in regard to either the whole house or the contents of the house if the house or its contents meet a certain heritage standard, and if they can meet public access obligations which are placed upon them to ensure that the public can enjoy that property in the future. That exemption lasts as long as the next lifetime or, if there is a sale of the property, then that exemption would come to an end. It is not an outright relief.

Q725 Chair: Is there a list of conditional exemptions that have been granted for houses in Scotland?

Nick Way: Yes; it would be on the HMRC website.

Q726 Chair: So we would be able to access that and look at that and so on.

Nick Way: Yes.

Q727 Chair: Is there an equivalent for landed estates of conditional exemptions?

Nick Way: There might be conditional exemption for land of a certain heritage quality. That is often associated with an historic house and, therefore, going with that, there will be certain obligations, usually on the management of that land and occasionally on the public access to it.

Q728 Chair: But, again, all of that would be publicly accessible on the HMRC website, would it?

Nick Way: The conditional exemption provisions are available through the HMRC website.

Q729 Mr Reid: As you know and we have discussed earlier, much of the land in Scotland is part of large estates. What benefits do you think that privately owned large estates bring to the communities in which they are situated?

Sarah-Jane Laing: We touched on this earlier, but, again, going back to that distinction and privately owned estates, it is estates in general, and large, well-run, integrated estates bring many benefits. Whether they are private or community owned estates, it is the estate and the way it is run which is the main factor. We touched on some of those benefits before, but, as I say, they can range from environmental, food security, not just in terms of productive farmland but also allotments, grow-your-own community gardens, skills development, training, education, and connecting people with the land. All of those are provided by estates and many private estates in Scotland. And there is rural development. A

lot of rural development which is happening in Scotland is underpinned by partnerships and investment by many of those private estates, and that is evident across the whole of Scotland.

Q730 Mr Reid: Do you think our present laws on land ownership are perfection or is there any need for reform?

Sarah-Jane Laing: They are certainly not perfection. We touched on this before. There are very few laws that are perfect, but, certainly, when it comes to the Land Reform Act that we have, there is definite room for improvement within that.

Q731 Mr Reid: How would you like to see it improved?

Sarah-Jane Laing: Lots of things: the time scales; the requirements in the communities in terms of what they have to meet to jump through the hoops for community right to buy; the streamlining of the process; the transparency of the decision making by Scottish Ministers could be improved significantly. There is lots of room for improvement in how that Act is being operated. Linked to that is awareness, and organisations such as Development Trusts Association Scotland, Community Land Advisory Service and, indeed, Community Land Scotland are doing lots of awareness raising. It is letting people know what the possibilities could be, but those possibilities, I have to say, sometimes are focused very much on the possibilities which could result at the end of a tense period when, in reality, you could reach that period together through partnership working. There are changes to the legislation, but there are also cultural changes which need to happen and which are starting to happen across Scotland.

Q732 Mr Reid: In terms of the structure of land ownership, are you saying that we don't need to move towards making it easier for communities to take over the land, or are you saying that the private landowners that are in charge at the moment are the best people to run rural Scotland?

Sarah-Jane Laing: Where there is a willing seller and the community has an aspiration to buy, there is a definite need to make it easier for communities to own land. There is no argument with that. I also think there is a need to look at how communities can access publicly owned land. You will be aware that Scottish Ministers themselves are the largest landowner in Scotland and we have lots of issues there. We also have land that is held by Scottish Ministers which was formerly owned by private landowners and was supposed to be gifted to communities, which is sitting with Scottish Ministers or with local authorities at present. We need to look at those parcels of land as to how we can get those into community ownership as well. There are lots of things that can be improved upon what we have at the moment. What I don't think we should do is focus solely on looking at breaking up large estates because I don't think it is to the benefit of rural Scotland.

Q733 Mr Reid: Why would that be?

Sarah-Jane Laing: We have touched on it before, but it is about the scale on which some of these estates can operate and the benefits they can bring. If large-scale integrated land ownership did not work, then those estates where they are now community owned, such as Uist, Assynt and Knoydart, would have divided them up. They are running them as integrated estates because the estate model works.

Mr Reid: Okay; thank you.

Q734 Chair: You do sound a proper Bolshevik in some of these things, don't you? Does your Committee know that you are saying these radical things?

Sarah-Jane Laing: I don't think I sounded radical there at all, Chair.

Q735 Chair: The intention was not to sound radical. Okay; I understand that. Some of the things, in terms of moving stuff forward, wanting to see progress, wanting to see it speeded up did sound quite progressive, and that is not the image that people would normally have of your organisation.

Sarah-Jane Laing: I think that is because many people have a misconception about the organisation and the people who are members of it, rather than me representing something which is not the views of our membership. Progressive and forward-looking is certainly something that I feel Scottish Land & Estates is, and hopefully others agree with me.

Chair: Partly our view is coloured by the response that we got to our 432:50 document and the somewhat intemperate language that was used in response to that. So maybe you are your own worst enemies in these circumstances, but I digress.

Q736 Pamela Nash: I would just like to put some of these points to Nick. In terms of your Association's evidence to the Committee on this, there were very strong concerns raised about the possibility of provisions to give communities a right to buy property. Can I just ask you to talk to us about that and ask if your Association thinks that there is any circumstance where the public interest would be served to such an extent that that would outweigh the rights of an individual landowner?

Nick Way: We would accept that compulsory purchase is needed in certain situations. One of them would be for purchase of property or land to make way for infrastructure projects if they were in the public interest, with fair and timely compensation. Earlier on in the discussion on one of the questions, I said that we thought that existing provisions for local authorities to purchase built property which had been neglected were sufficient. What concerns us is compulsory purchase outside those provisions. It is unlikely that a community would want to buy the historic house itself, because that is a big cost drain usually, and so our concern there is that the income-generating property around the house might be purchased, leaving the house high and dry without that ability to earn an income to support the maintenance of the house. That is our third concern.

Q737 Chair: One of the objections that we have heard to land reform is that it would lead to the break-up of landed estates and loss and so on and so forth. We had examples drawn to our attention where landowners were advertising their own estates for sale in numerous lots. The example we had was Kinpurnie estate in Angus, on sale last year at a price of £29 million, and it was marketed for sale in 23 separate lots. Presumably, it was done that way to maximise the revenue, but to some extent that negates the point about you have to keep things as they are, otherwise they break up, does it not?

Sarah-Jane Laing: I don't know enough anything about Kinpurnie's estate activities, I have to say, to know how it was run. It may not have been run as an integrated estate; it may be that they are selling off the lots. They are selling off their farming or housing business. I

would have to look into that in more detail, but, yes, you are right, there are times when an estate, regardless of how it has been run in an integrated form, may no longer be viable as a whole. If that is a decision that is taken, then the fragmentation of that may result. As I say, I don't know enough about how the business was structured and about the activities of that estate to comment on it specifically, but I am happy to do so.

Q738 Chair: Okay. The one point that we have not touched on so far is slipper farmers, but that to some extent is an issue that is being overtaken by events. I think we had best move on rather than spend a lot of time discussing that. If we want to pursue that vigorously, we will come back to you for further evidence due course.

Sarah-Jane Laing: Can I just make one comment about it? Along with the rest of the industry organisations in Scotland, we thought that slipper farming, when it came to light, was scandalous. That is a word that has been used within the Committee. We have been working with the Scottish Government and cross-party to address it. It is slightly disappointing that we are going to take a longer transition time to move from what we have got to area-based, and we have to make sure that, when we get to area-based, the activity requirement and active farmer is so tight that you can't have these loopholes in the future.

Q739 Chair: We understand that some sales of entitlement have been occurring just fairly recently, so it is quite clearly still continuing. It is a disgrace, particularly in a climate when we have had great discussions about welfare dependency. The idea that people can buy and sell their entitlement to public money is really appalling, and I think the vast majority of people in the country would be absolutely shocked by it, but they would just see it as another example of what has traditionally happened in farming out of sight. That really is a difficulty in perceptions of the industry.

Sarah-Jane Laing: Yes. It is a farming issue, though, rather than a landowner issue because there are tenant farmers who are slipper farmers and who have traded entitlement. You are right: it is a problem of the farming industry, it should not have been allowed to happen, and we have to make sure that it is discontinued going forward.

Q740 Chair: We are just coming to the end now. I don't think there are any other points that my colleagues want to ask. As I indicated to you informally before we began, we always give people the opportunity to answer any questions that we were not bright enough to think of. We will give you the opportunity to raise any issues that you think we should have touched on but we have not. Is there anything else that you want to add?

Nick Way: Sarah-Jane, you are top of the bill. So shall I go first, if that is all right? If I may briefly, I have a couple of points. One that did come up, and I am just referring back to it, is the integrated nature of the historic house business with the other related enterprises around it, whether it is farming or furnished holiday lets, and they work together. That is worth keeping in mind for the future, because it leads on to my second point, which is that these historic houses—I am thinking of the ones that are economically active—are all valuable assets, but the ones that have the most obvious public benefit are the ones that are economically active, whether they are tourist attractions or local places for people to use for events and so on. Those are very significant assets for the economy of Scotland where tourism is probably even more important than any other part of the UK. Those privately

owned ones are a very significant component in that overall offer, and they are often in fragile areas of the country. They may be in places where they are a significant employer locally in their own right where there may not be very many alternatives. That is something that I would like to mention.

The final point, if I may, is that they are fragile. I am not saying that they deserve special treatment—I am certainly not saying that—but they are fragile. The amount of money that has been available for their maintenance has actually fallen in recent years, because the costs of specialist conservation have risen, and compliance with regulation—maybe good regulation—and incomes have stayed, broadly speaking, flat, and the backlog of repairs has increased from £25 million to £57 million over the last four years, which is over double, which is becoming quite a problem for a number of them. We need to find a way to ensure that they can go on providing those public benefits in those fragile rural areas.

Sarah-Jane Laing: I have two very quick points, Chair, if that is okay. When we talked about trusts, the focus was very much on tax elements of trusts. As I said, not being a taxation expert, I could not comment on the intricacies of that, but when I canvassed the members, who I know use trusts, about their use they did talk very much about good governance and stewardship elements that the trust structure can provide, which can address some of the issues which I know have been raised by communities about certainty of good management. If you have a trust which is managing an estate well with a good landowner, communities can sometimes be worried about what the heir will be like. Will he follow on from that? They were very keen to stress that a trust structure, where you have the advisers and governance in place, can help to address that issue and to continue the good management and good ownership of the estate in the future.

The one point that I would like to make, Chair, if that is okay, which I hope has come through, is that landowners and private landowners in particular are part of the solution of what we are trying to achieve with land reform, which is empowered communities and us all working together for a successful Scotland. We are not part of the problem, and, if we are not doing a good job of raising awareness and communicating that message, then that is something that I will take on board and look to see how we can raise awareness of the case studies for good practice and make sure that our message is a positive and progressive one, because that is what the organisation stands for.

Q741 Lindsay Roy: Is it not an exaggeration to be all-encompassing in your comments there about landowners? Some of them are not enlightened.

Sarah-Jane Laing: I don't think I was all-encompassing. I was saying that certainly some of these trusts that I had canvassed passed on that message—that that is a benefit of the trust structure. I certainly would not ever be all-encompassing in my comments about any sector of society.

Q742 Chair: Things have got to change if they are going to remain the same, as was said in another context. Could I thank you for coming along? This has been very helpful. We

will probably be producing an interim report in the very near future dealing with a number of the topics we have touched on, but there will probably be other topics that we want to do more work on going forward. Thanks very much for coming along.

Sarah-Jane Laing: Thank you for your time.

Chair: Thank you.

Examination of Witnesses

Witnesses: **Stuart Adam**, Senior Research Economist, Institute for Fiscal Studies, and **Professor Jim Gallagher**, Gwilym Gibbon Research Fellow, Nuffield College, University of Oxford, gave evidence.

Q743 Chair: Gentlemen, could I welcome you to this meeting of the Scottish Affairs Committee? As you are aware, we are having hearings into the question of land reform in Scotland. We had a session earlier on, which I am afraid has slightly overrun, and, therefore, we apologise for keeping you waiting. We've got to be out of here by 10 o'clock—don't laugh, don't laugh—so, as long as we rattle through the evidence, we will get things heard.

Could I start off just by asking you to introduce yourselves? Mr Gallagher, you are known to us as an adviser in another capacity, but you are here actually giving us evidence today. Maybe you could tell us the basis on which you are here.

Professor Gallagher: Thanks very much, Chair. As you know, I advise the Committee, but this is an entirely different matter. I am here in a purely personal capacity. As you know, I am a research fellow at Nuffield college in Oxford, and my interest in taxation and land taxation goes back a very long way, to the days when I was responsible for advising Scottish Ministers on it.

Stuart Adam: I am a senior research economist at the Institute for Fiscal Studies. I have been working there for 12 and a bit years now, mainly on design of tax and benefit policy. I was one of the main authors of the Mirrlees Review of the whole of the UK tax system that we published a couple of years ago, which covered pretty much the whole range of taxation but including land and property taxation. I have recently been thinking particularly about tax policy in Scotland, partly in the context of the Scottish independence debate but also a little bit more broadly given the Scotland powers that are being devolved.

Q744 Chair: Could you start off then, Mr Adams, just for the record, and tell us about the Mirrlees Review—what it is about, what its broad findings were, and how you think it impacts upon what we are discussing here in this session?

Stuart Adam: Sure. The Mirrlees Review was a very big five-year project looking at, essentially, the principles for design of tax policy for any modern economy, just starting from first principles and saying, in the modern world, what characteristics would a good tax system have? We then essentially assessed how the UK measures up to those generally applicable principles and made recommendations for how to get from A to B for, essentially, a long-run reform of the UK tax system. It was never intended to be a recipe for overnight reform. It is pretty radical in its recommendations, and the intention is for it to inform the debate and be at least one suggestion for a long-term direction.

One of the key features of it was the importance of thinking about tax policy as a whole and how it all links together, and so, while we address questions around the design of

business rates, council tax, stamp duty land tax and so on, part of the importance of what we are doing is thinking of property as, for example, one form of investment and how that fits into how you would want tax saving and investment more generally, housing being something that you consume when you live in a house, and how that fits into how you would want to tax consumption generally and so on. It is, really, part of fitting property taxation into tax policy as a whole. The focus was on tax policy rather than on land reform specifically. I would not claim any particular expertise in the area of land reform, still less land reform in Scotland in particular, but more in terms of how we think about tax policy.

Q745 Chair: Could I ask whether or not Governments in Westminster or Holyrood have paid the slightest attention to what Mirrlees said and, if so, why, and, if not, why not?

Stuart Adam: Have they paid attention? I think, yes, in the sense that we had a couple of useful—I hope—meetings with the Exchequer Secretary around the time that it was launched. We had a series of seminars and meetings at the Treasury. I, similarly, was asked to give a seminar at DCLG about property taxation. I gave a seminar on property tax reform to the Scottish Parliament’s Finance Committee about a month or two ago, so we have been having engagement with them. How much notice they then take in the sense of doing anything about it I do not really know. Certainly, we have not seen commitments that implement the recommendations that we have made. In some areas there have been some moves in the right direction which may or may not be partly because of our recommendations. I make no bones about the fact that a lot of what we were recommending would be very politically difficult to implement, and, as much as anything, we are hoping to influence the long-running debate, get people thinking about what direction they want policy to go in, rather than expecting 2015 general election manifestos to propose implementation of the Mirrlees Review.

Professor Gallagher: I agree with that. The Mirrlees Review is a very impressive pile of work. I say that with Stuart sitting beside me, but I would say it if he wasn’t as well. I think it would have to be judged over a 20-year rather than a two-year horizon, and I would be surprised, if over 20 years, everything in it has been done, but I would imagine that some changes will be made that are consistent with it because, broadly speaking, it is a pretty good analysis actually.

Q746 Chair: In terms of looking at how taxes on land and property in general are applied at the moment, is that in line with any general principles of fairness and efficiency, or is it all just simply random?

Stuart Adam: To some extent, fairness is in the eye of the beholder. Someone could always come to me and say, “I think that this particular person paying this amount of tax is fair.” It is hard to discern defensible underlying principles behind the system, as far as I can see. There are too many things that just don’t look like they have a place in any rational tax system. Of all parts of the UK tax system, I would suggest that London property taxation is a pretty good candidate for the worst designed part. I would also say, not coincidentally, that it is going to be one of the most politically difficult areas to reform, but there are aspects of the system that really are hard to justify: why we should be taxing housing on the basis of what properties were worth 23 years ago and counting; why buying a property with a £1 higher price should be associated with stamp duty of up to £40,000 more. With regard to these features, it is really hard to see any first principles that would get you there. We are partly there on the basis of historical accident, plus the difficulty, once you are in a particular position, of reforming it radically.

Professor Gallagher: I would agree with that. Property taxation has just “grewed”—it has never been designed. There are, in effect, four property taxes that are relevant in Scotland: non-domestic rates, council tax, stamp duty land tax—soon to be land and buildings transaction tax—and then capital gains and real property. Of those four, three are now devolved to the Scottish Parliament, and that provides them with an opportunity to look rationally at the design of the system. The important thing, which is very clearly stated in the Mirrlees Review, is that one does not simply look at the ideal but thinks of how you get from where you are to where you want to be, because, obviously, changing the taxation system can be economically disruptive. You need to think very carefully about it and do it stage by stage.

The two big property taxes—non-domestic rates and council tax—have, of course, been completely broken on the wheel of local government finance. It was not the taxing particularly that was the problem; it was the spending that they were required to support throughout the 1980s and 1990s.

We have ended up with a council tax which was a very well-designed fix to a terrible problem, the terrible problem having been the poll tax. It is, as Stuart says, completely absurd that no Government has had the courage to do any revaluation since the thing was introduced in the 1990s. There is also the issue of why domestic property is taxed in one way, which is a hybrid of a personal and a property tax, and non-domestic property taxed in another way.

The system is ripe for some reform. Property is, in my view, under rather than overtaxed, particularly in the context of a devolved system. Property has the great advantage that it does not move around and is, therefore, eligible to be taxed in a decentralised way. Property is overvalued and fetishised in this country. The ownership of land and buildings is seen as a good thing in itself, irrespective of any economic benefits they bring. One contributor to that—only one—is the fact that they are not taxed as much as they might be.

Q747 Chair: Presumably, nothing is taxed as much as it might be. You mean it is not taxed as much as it should be.

Professor Gallagher: Relative to other economic assets, it is undertaxed.

Q748 Mike Crockart: You talked about getting to where we want to be. Perhaps we can just concentrate on where we are for a moment, and look at the particular taxes and the effects that they have on land values. Some of the evidence that we have already had from a number of witnesses indicates that the way in which land is taxed and, in particular, tax reliefs and exemptions push up the price of land. Would you agree with that?

Professor Gallagher: Broadly, yes.

Stuart Adam: Yes.

Mike Crockart: Okay; short answers. That is good.

Stuart Adam: I can give you a longer one if you want.

Chair: I said we’d got to be out of here by 10 o’clock.

Q749 Mike Crockart: Let me come in with a supplementary and elicit a longer response then. How easy would it be to quantify the relative impact of those individual elements on the value of land?

Professor Gallagher: That is a bit of economic modelling. There is one big tax relief in relation to land that is huge, and that is the abolition or the non-rating of agricultural property, which, of course, is geographically the largest part of land in the country. That is the biggest one that is around. It is sometimes seen as a law of nature that farming does not pay tax on land. It is not a law of nature; it is a public policy from the 1920s, at a time when agriculture was in some trouble and the remaining rates in agriculture were abolished then. It is not obviously economically rational that land use for one purpose is taxed and land use for another purpose is not. However, making the transition from here to there would be very difficult and complex, and potentially destabilising.

Q750 Sir James Paice: Why should that affect the value of land?

Professor Gallagher: Because if somebody has to pay money for owning something, they will pay a smaller price to buy it. I look to my economist on the right. I think that must be right.

Stuart Adam: Yes; I think that is broadly right. You can apply a similar analysis to any tax, but, if you impose a tax on property, either that could be paid by the occupier of property, who just has to pay the tax, or the rental price could be reduced so that the burden of that tax is passed on to the ultimate owner. In economic theory, the extent to which it is passed on to the owner versus the occupier depends on how responsive the supply and demand for land and property are to price. Generally speaking, we think that the supply of land is pretty much completely fixed. The supply of property is pretty unresponsive to tax, not least because it is much more constrained by the planning system and so forth, whereas demand for property relative to the supply is more responsive. In those circumstances, theory would suggest that the tax would largely get passed on to the ultimate owners, at least in the long run, simply because people can respond to a tax by saying, “I will buy less housing,” say, “or use less commercial property for my business and use my money somewhere else instead,” whereas if you own the property you are pretty much stuck with it, and if people are willing to pay less for it you can’t produce less in response because it is just sitting there fixed.

There is some evidence to suggest, certainly in the case of stamp duty and business rates—I think there is evidence for council tax as well—that empirical research as far as there has been supports that contention. In the short run, changes in the tax can affect the price you pay to occupy property or, in the case of stamp duty, the price that you pay to buy it. In the longer run, it does tend to get reflected into the underlying value of the assets and therefore passed on to ownership. Some of that evidence is getting on a bit now from, say, the mid-1990s, which I am sorry to say is already 20 years ago, but I would certainly expect that still to be broadly the case.

Q751 Mike Crockart: The example that you are using is where a tax is levied and it is then reflected in the value of the land or property longer term. Is the same true in the opposite where land benefits from a lack of tax, effectively? Is that then reflected in inflated values?

Stuart Adam: Yes. Broadly speaking, if you reduce the tax, it should, in the long run, have the opposite effect from introducing or increasing it, so the same thing should apply. Again, it is going to vary slightly from case to case. If, for example, you introduce a temporary reduction in business rates, it may well be that rents don’t fall if you know that the tax is going to go back up in a couple of years and, therefore, it is actually a benefit to the

business that is running in that premises at the time. So it is not always going to be equally true, but, overall, in the long run, the level of property taxes should mostly be reflected in the value of land and property to its owners.

Professor Gallagher: To take a simple and perhaps less emotive example, the non-domestic rates system has a lot of small and rather random exemptions—for rural petrol stations, for example. If you have commercial property which is rented, it will typically be on a five-year rent review, and reducing the rates bill simply gives the landlord an opportunity to put the rental half up because there is so much value you can take out of the business that supports the rent and rates. That is a pretty common experience, and anybody in the commercial sector will tell you to expect that.

Q752 Sir James Paice: I am still slightly puzzled by this in the context of our investigation, which is into land reform in Scotland. The main issue is the large areas of Scotland that are owned by a relatively small number of people; we need not go into the details. Any business rate is based on a notional rental value of the land. If that land has really no or very low economic value in terms of running a business on it—indeed, most Scottish estates lose money—or they may not have it and may just be sporting estates with very little income, then the rental value is going to be minimal, and therefore the rates are going to be minimal, if anything. In the context of our inquiry, I fail to fully understand how the absence or presence of business rates is of any significance. I thought, when you were going to talk about tax exemptions, that you were going to move on to talk about the inheritance tax issues about which we have heard a lot from different perspectives, but I am not entirely convinced that putting business rates on a lot of Scottish land is going to make a lot of difference to its value.

Stuart Adam: Certainly—

Sir James Paice: Because you are implying that people buy land to run a business on it, but that is not what we are hearing.

Stuart Adam: I did not mean to imply that. There are lots of reasons that people might buy land and property, and running a business on it is only one. It is true that the value per square foot or hectare, or however you want to do it, of agricultural land is typically much lower than commercial residential property. There is no doubt about that. Therefore, I would expect the rateable values of agricultural property and other undeveloped land, if you started levying business rates, to be low, and therefore the revenue per hectare to be low and it would not make that much of a difference.

Now, as Jim says, you are going to have to weigh that against the fact that there is just an awful lot of this stuff, and so adding up a lot of low value things could still make some revenue difference. But, no, I wouldn't suggest that the tax burden that would be imposed on a particular area of agricultural land, say, would be enormous and reduce its value hugely. To my mind, the principal argument for starting to levy business rates on it, aside from just a general fairness thing as to why one particular sector should be favoured like that, is just the economic efficiency argument that taxing land put to residential use under council tax to commercial use under business rates and not taxing land put to, say, agricultural use, simply distorts patterns of land use. It favours putting it to one use rather than another. Unless I am given a strong reason, I am going to be inclined to say that that should be left for buyers and

sellers, plus whatever planning system you want to put in place to deal with it, rather than being something that is primarily a tax matter.

Q753 Sir James Paice: I follow your reasoning, and from a purely academic perspective I can see exactly what you are saying and wouldn't argue against it. In the context of our inquiry, though, which is about land reform and access to the ownership/possession of land in Scotland, I can't see how the issue of business rates, on or off most land in Scotland, is going to have any significant difference to its accessibility, whether it is communities or other individuals or—

Professor Gallagher: I do not think either of us is suggesting that making the tax system more rational in respect of land would deal with issues such as access or community ownership. What it would do in the long run, I would think—I am back to being an economic fundamentalist here, and perhaps Stuart is not one, but I will be one for this purpose—is that it would result in a more rational allocation of land for different purposes. Whether those purposes are community ownership or access is a separate question, but, in so far as there is an issue about land taxation, it is that the system is irrational and patchy and therefore is economically inefficient. That is the argument we are both making in this context.

Q754 Sir James Paice: To expand on that, Jim, how would it improve access or not—the objectives of the Committee? Your point is that it is economically inefficient and it leads to differential use of resources and so on. Can you put that into English as to how it would impact on how accessible and how available land would be to other people other than the existing owners in the imposition of what would seem to be agreed would be a very low level of tax?

Professor Gallagher: What the tax would be would depend on the value of the land, and whether that is a rental value—

Q755 Sir James Paice: Value or rental value?

Professor Gallagher: Whether that is a capital or a rental value, because we are in a very odd world in which there is no connection between capital value and rental value.

Sir James Paice: Precisely.

Professor Gallagher: So I don't think capital or rental is the issue here. There is a market, of course, for that—both a capital market and to a lesser degree, depending on the land, a rental value. You can buy a sporting estate or you can rent a sporting estate. There are numbers available to measure these potential tax liabilities.

What would this mean in the long run? I caught a little bit of the previous evidence session. One of the striking things about land—not in Scotland and not just agricultural land, but land in general—is that in the UK, for as long as I can remember, it has been a speculative asset. People buy land and buildings in order to have land and buildings because they think they are going to go up in value. One of the reasons—only one—that land and buildings go up in value is that they are, in my view, undertaxed as a class. If they were taxed a bit more, they would not go up in value quite so much and there would be less of a temptation to use land and buildings as a speculative asset. To be fair, I don't think this is as relevant in relation to highland sporting estates as it is to Edinburgh New Town flats.

Sir James Paice: No, quite.

Professor Gallagher: But, nevertheless, that is not, in my view, a good thing. Part of the solution to that—only part of it—is a rational system of taxation.

Q756 Sir James Paice: Do I understand, therefore, from what you are both saying that you take the view that it would make economic rationale and sense to levy business rates on agricultural land?

Professor Gallagher: As a matter of principle, yes. The first thing that should be done is make some assessment of what the rateable value might be, whether on capital or revenue, and then to consider what the economic effects are on the agriculture industry of doing that. I would imagine it would have to be done over a very long period of time. Over time, as Stuart says, in the long run, taxes on property affect the capital value of property. It is the long-run economic effect.

Q757 Sir James Paice: Given the disconnect, which you rightly identified, between value and rental value, would you prefer that tax to be on actual value or rental value?

Professor Gallagher: My own view is that, in the long run, there is not a disconnect between capital and rental value, but in the long run we are all dead, as *The Economist* said. There may well be a short-run disconnect.

Q758 Sir James Paice: Do you favour it to be therefore—

Professor Gallagher: I would begin with market rentals because they are available. If they were not available, I would do what the assessors do in every other case where market rentals are not available, which is apply a straightforward percentage to a capital value—a so-called contractors' test.

Q759 Sir James Paice: Can I turn, therefore, to the elephant in the room that we have not touched on with this particular angle, which was the inheritance tax angles, which, as you say, you probably heard from the earlier exchanges. From what you are both saying, you clearly believe that that tax of agricultural property relief does impact the value of land. Can you put a quantum on that?

Stuart Adam: The short answer is no, just off the top of my head. Again, I would expect it to have an effect on the land price. I wouldn't want to say how big that effect is.

Professor Gallagher: I have no views on inheritance tax, I am afraid. I have not studied it.

Q760 Chair: Could I just clarify, following up some of Sir Jim's points? Given that there is very unlikely to be much community demand for bare rock, if we leave that to one side for the moment, if land is taxed, and if it is clear that the taxing of that land reduces the price, then a lower price is almost, by definition, going to make it more affordable for those who seek to buy it under either compulsory purchase or any other measure. Almost then, by definition, as one follows the other, the imposition of a tax of land would make it more affordable for the community to buy.

Stuart Adam: No, because the land price falls directly by the amount of the tax that you then levy on it. I could buy the land for less, but I then have to pay this tax every year, so, actually, I am neither better nor worse off buying it than I was before.

Q761 Chair: That is interesting because the community argument, by and large, has always been, as I understand it, that the difficulty is not in the production of revenue from the

land, as it were, because they believe they would be able to use it much more productively. Their problem is raising the capital to buy it in the first place. That difficulty that you identify then would be dealt with, as it were, by the mechanisms that they would adopt—once they own it—to run it.

Stuart Adam: Sure. If the problem is that you can afford it on an ongoing basis and it would be a good thing to buy, but you can't afford the up-front cost, the usual answer to that is, "I will take out a mortgage." In a sense, I suppose you could think about the tax as having a similar effect—that it makes the up-front price lower but you have to pay this tax every year instead, a bit like you would pay mortgage interest every year. You can think of it a bit like that, but, frankly, if the aim is to try and give loans to people for things that would be viable if only they could get a loan, then you would probably want to address that through the credit market rather than through the tax system.

Professor Gallagher: I have certainly heard people often say that the community could make more money out of a piece of land than the landowner, but that is an empirical proposition. I am not always sure that it is true.

Chair: Sir Jim, you wanted to raise the issue of inheritance tax?

Q762 Sir James Paice: I think we just touched on it. It stemmed from your comment, Jim, in your evidence that, basically, all property taxes were devolved, whereas I would have thought issues—

Professor Gallagher: There are two taxes—you are quite right—which impact on property. One is capital gains, which I mentioned. The other is indeed inheritance, but I have made no study of inheritance, I am afraid.

Stuart Adam: I might add to that, but, again, thinking from a very big picture of a Mirrlees Review-type perspective, I would say there are more taxes on property that are not devolved. You can think of things like income tax that landlords pay on rental income and what happens to corporation tax from companies' own profits. You can think about the VAT exemption for housing that is there at the moment. There are lots of parts of the tax system—and actually very important parts of the tax system—that are also relevant to property and are not devolved. In terms of inheritance tax, I wouldn't say I could quantify the impact on land prices. Again, from a design of inheritance tax point of view, it does seem odd that you would want to exempt this particular form of asset. It seems like a fairly gaping invitation to tax avoidance, if nothing else; you buy this particular asset, subject to various restrictions, you then pass it on and there is no inheritance tax. If people worry about how effectively inheritance tax is actually taxing the biggest estates, that would seem to be a problem as well.

Q763 Sir James Paice: I would not dispute that with you, except to point out that virtually everybody whom we have interviewed on the subject says if you got rid of agricultural property relief then they would, almost without exception, be entitled to conventional business relief, which is much bigger.

Stuart Adam: I would get rid of that as well. The same argument applies.

Q764 Sir James Paice: Yes, but that applies to all businesses. You would get rid of all business relief.

Stuart Adam: Yes, essentially. Again, you can go into the details of that. That is one of our less radical propositions.

Sir James Paice: I think we have covered it, Jim.

Chair: Jim?

Q765 Jim McGovern: Thanks, Chair, and thanks for coming along. Jim, I have a question for yourself. I think you argued for a three-step plan towards a more rational system of land and property taxation.

Professor Gallagher: Yes.

Q766 Jim McGovern: Again, I think you are quite clear that this needs to be a cross-party exercise—

Professor Gallagher: Yes.

Jim McGovern: —to avoid “the temptation...to court popularity”—those are your words—by retaining tax quirks.

Professor Gallagher: Yes.

Q767 Jim McGovern: Given the importance of this, how likely do you think that will happen cross-party?

Professor Gallagher: What ought to happen and what will happen are often, as you know, Mr McGovern, two different things. One of the things that the Mirrlees Review has done is begun to set an agenda for tax reform. When one looks at the history of tax reform in relation to land—I am thinking here of the rates, the poll tax, and the council tax in particular—short-term approaches are catastrophic. You really need to plan for the long run and you do need to plan on a cross-party basis, because the temptation in taxation is to do the popular thing, particularly if the taxation isn’t all that important to you as a Government. The temptation to paint your opponents into a corner on this is very strong. We have got to the situation in Scotland at the moment where the local government finance system and local taxation system is profoundly broke. It is unsatisfactory in all sorts of ways, but the political incentives for the three or four parties who might have a say in changing it are all not to talk about it. The first party who proposed, for example, a revaluation—or, even more radically, increasing the level of the council tax—would pay a political penalty. Therefore, none of them will, and that is not a satisfactory arrangement for the long run.

Q768 Jim McGovern: So you don’t think there will be some sort of cross-party—

Professor Gallagher: In the immediate political climate of Scotland, I think that is unlikely. Over the term of the next Scottish Parliament I think it is conceivable.

Q769 Jim McGovern: Stuart, do you think that the UK Parliament, the Welsh Assembly and the Northern Ireland Assembly all face much the same challenges in trying to modernise land and property taxation, or does it differ according to region?

Stuart Adam: Qualitatively, the challenges are similar. There are differences in the land and property market in the different areas. In Scotland, for example, property values are less unequally distributed than they are in England, and that makes some difference. More of the land is agricultural land, but the qualitative recommendations that that would mean you wanted to do and the nature of the challenges you are facing are broadly similar. One difference, I would say, is that, property taxation having been devolved to some extent for some time and being devolved further now, the different parts of the UK have introduced reforms that are in some cases improvements. So the land and buildings transaction tax in

Scotland is a significant improvement over stamp duty land tax. What Northern Ireland has done to domestic rates is almost completely a model for what I would say we would ideally like to do to council tax. The fact that it has at least happened in a part of the UK is encouraging to me that there may be reform elsewhere, though I have to say, in terms of searching for cross-party consensus, I find it quite depressing that one of the few areas where there is cross-party consensus at Westminster is that there should not be a revaluation of council tax, which is again—

Q770 Chair: Why were they able to do it in Northern Ireland? Northern Ireland is an area that you would normally associate with division, so the fact that they seem to have got unity there would tend to run contrary to the point that agreement is not possible.

Stuart Adam: It does suggest that in some circumstances agreement can be reached. What the political factors are that allowed for agreement in Northern Ireland that are not currently allowing for agreement elsewhere in the UK, I'm afraid I simply do not know. I don't know enough about the politics of it in Northern Ireland; I just know what they did.

Professor Gallagher: I think one of the critical factors, though I am going from memory here, is that the average household bill is markedly smaller.

Chair: Right.

Q771 Jim McGovern: I have a question for both of you gentlemen. Do you think it is logical that agricultural land, forestry land and sporting estates are not business assets for the purposes of the non-domestic rating system but can be for the purposes of tax relief?

Stuart Adam: For the purposes of inheritance tax relief is this?

Jim McGovern: Just tax relief generally.

Stuart Adam: To my mind, all property should either be classed as domestic and therefore fall within council tax, or non-domestic and therefore fall within business rates, though I may want to reform council tax and business rates, but there should not be some gap into which it falls where it is currently subject to neither. That is the problem we have at the moment. In terms of whether it qualifies for reliefs in inheritance tax and all the rest of it, I would first of all need convincing why there should be such reliefs in the first place. Given that I wouldn't want to have a relief for unquoted businesses in inheritance tax, as we have, or agricultural land and property and inheritance tax, as we have, I don't really mind whether agricultural land is also classified as business property or not. I would like the relief to apply as narrowly as possible because I would like it not to be there at all.

Q772 Chair: Can I just clarify? You have never been elected to anything, have you?

Stuart Adam: No—strangely enough, no.

Q773 Chair: There is a contradiction, isn't there, with you getting elected and putting forward proposals that nobody likes?

Professor Gallagher: To defend Stuart for a minute, if I may, the great advantage of abolishing tax reliefs is that it means that you can reduce tax rates.

Q774 Chair: Do you believe that that one would follow the other, though?

Professor Gallagher: If you do them as a package, that is a way of doing it.

Stuart Adam: Also, in terms of addressing the political difficulty, I would have thought the way to make it happen is to get everyone who benefits from the tax cut—the cut in the tax rate—on side.

Q775 Chair: Again, that is interesting, but I am not sure that it necessarily corresponds to reality. Those who lose something are always much more vociferous than those who are liable to gain.

Stuart Adam: Absolutely. I made clear right at the outset that one major reason why no political party is proposing to implement the recommendations from the Mirrlees Review is that they are very politically difficult. I make no bones about that. We make some suggestions as to how some things might be made a bit politically easier, how you might go about approaching transition and so on, but there are no bones about it. Radical reform entails losers as well as winners. Losers tend to be vengeful, while winners tend to be ungrateful, and that means that radical reform is unusual. I am not that hopeful about much of what we propose on land and property taxation happening in the short-term. I am, if anything, less optimistic than Jim is about even the next Parliament and so on, but one thing that gives me a little bit of hope is, for example, the experience of Northern Ireland and domestic rates, and the experience of Scotland with the land and buildings transaction tax. Neither of those is a perfect tax, but they are both big improvements on what we see in England and Wales, for example; so improvements are possible.

Q776 Chair: As to the Scottish parallel you used there, there was not a clearly identifiable and substantial number of losers though, was there?

Stuart Adam: No. One thing that makes stamp duty a little bit easier than council tax and business rates is that it is only paid when there is a transaction. Other than those people who think, “Aha, I am looking to buy a house next year or, for that matter, sell a house next year, and therefore this will affect me,” unless you are in that position, you do not see it in the way that council tax and business rates land on your doormat every year, in addition to which of course LBTT may not have had all the problems it is going to have yet because they have not yet said what the rates and the thresholds are going to be. Even if you think, “Aha, I am going to buy a property next year,” you don’t know whether your particular bill is going to go up or down yet. Some of those political problems may be still to come, but stamp duty may be easier than the other two for that reason.

Q777 Jim McGovern: I think it was yourself maybe, Jim, who said that the losers tend to be more vociferous.

Professor Gallagher: I think we would all agree with that, yes.

Q778 Jim McGovern: Would it also be the case that the losers tend to be more powerful?

Professor Gallagher: Sometimes. Obviously it depends who the losers are. My soul was burnt by this as long ago as 1997 in the rates revaluation—it was actually 1975—which produced very large numbers of losers. They were very vociferous, and quite a lot of them were not particularly well off people—the money mattered to them. Stuart raises or illustrates a general issue about taxation that those taxes that you spot and see and perceive directly are much less popular than those taxes that go on in the background. No one really complains about VAT; it is just on every transaction you do. Most people don’t spot stamp duty land tax because it is all part of the ghastliness of buying and selling a house. It is all part of the transaction and you only do that transaction once every 20 years.

On the other hand, rates, particularly council tax, are one of the few taxes that most people pay in cash every month. Even income tax, which they pay every month or every week in their wages and salaries, is money they don't see. Council tax is money that they have to spend. That makes it unusually unpopular, which is why, over time, it has been really a very difficult political problem for all parties. It is true for the Scottish National party in Edinburgh at the moment; it was true for the Conservative party in the 1980s and 1990s, and it was true for the Labour party in the last decade—the first decade of this century.

Q779 Mr Reid: Farming in Scotland particularly is struggling. They are faced with cuts in common agricultural policy support. This is an e-mail I got in from a farmer last night: “At the moment the price for our fat stock has dropped £140 per head in six weeks. It is obvious the supermarkets are never going to pay the realistic price for food.” Why do you think that taxing farmers higher is going to be beneficial to the country?

Professor Gallagher: This will sound hard-hearted, but, when I work with the Government, every conversation I ever had with a farmer began with a story of that sort. I simply don't understand—this is my ignorance—why, if farming is so unsuccessful a business, farmland is so expensive. I just don't understand that.

Q780 Mr Reid: What do you think the effect of, say, charging rates on a farm will be? If the farmer who owns that farm has to pay extra rates, that is going to be an extra cost on his business. If the price falls as a result of that rate increase, what is the benefit of that to society?

Professor Gallagher: A tax on property is, in the long run, a tax on the ownership of property. That is the conversation that we had earlier. Therefore, its effect on farmers who are owner occupiers will be different from the effects on farmers who are tenants. This is about not the farmer who is a tenant of a landlord but a farmer who owns his own property. It is undoubtedly the case that, if you apply tax on property, the owners of property will own something which is less valuable, and that will be true for the farmer.

Q781 Mr Reid: As well as owning something less valuable, their business costs every year are higher.

Professor Gallagher: Yes, and you are absolutely right to say that the other issue, which we always come on to in the taxation of property, is the person who is asset rich and revenue poor, which is the story which I imagine lies behind the kind of e-mail that you are getting there.

Mr Reid: Yes.

Professor Gallagher: That is a difficult one, I agree. It surfaces in relation to agriculture. It will surface more painfully in relation to domestic property, if that is ever revalued, or if there is ever any move back to a more linear relationship between tax bill and capital value of the kind that we had under domestic rates.

Q782 Mr Reid: You haven't answered—

Professor Gallagher: I am coming to the answer. The answer is that we live now in the most sophisticated, financially aware society we have ever had. We have machinery in the City of London and elsewhere which can transform any form of capital or any form of revenue into the other. If there is a problem of someone who is asset rich and revenue poor, the financial services industry exists to enable them to deal with that.

Q783 Mr Reid: Could you expand? So your message to the farmer would be—

Sir James Paice: Sell.

Professor Gallagher: Let me do it by analogy first of all because I have not really thought this through in respect of the farmer, but I have thought it through in respect of the elderly lady in the big house. It is that, if you do not have the revenue to pay your property tax, there are financial mechanisms which essentially turn it into an appreciating liability, which is only to be met when the property changes hands.

Q784 Mr Reid: What are you suggesting for the farmer?

Professor Gallagher: In principle, I can imagine you could do the same thing for a farmer. I have not thought that one through in detail.

Q785 Mr Reid: You are saying the farmer should go and take out a loan. Is that what you are saying?

Professor Gallagher: It is certainly possible to imagine that somebody who does not have the revenue to pay their tax bill, which is a result of the value of their property, could accumulate a lien against their property which would only ever be crystallised when the property changed hands.

Q786 Mr Reid: Yes, but, by putting the tax on the property as well as making the farmer pay an annual rates bill, which has to be paid at the moment, you have also reduced the value of his property.

Professor Gallagher: There is only one economic transaction, which is either the cash paid or the reduction in value.

Q787 Mr Reid: But he loses both ways. He has to pay the rates and the value of his property is reduced.

Professor Gallagher: He could pay them, in principle, when he disposed of the property, which obviously people always do at some point.

Q788 Mr Reid: Yes, but the farms are often passed from one generation to the next, so—

Professor Gallagher: Which takes us back to the question of inheritance, doesn't it?

Q789 Mr Reid: You also want to hammer the farmer by removing the exemption.

Professor Gallagher: I am not here to be beastly to farmers, but—

Mr Reid: It sounds like you are.

Professor Gallagher: But the economic logic of saying that you must require people to be able to keep an asset, even though they are not making good economic use of it, is what lies behind the argument you are making.

Q790 Mr Reid: What effect do you think your proposals, if implemented, would have on farming in Scotland?

Professor Gallagher: It would depend on how substantial the phasing-in period was. I don't think anyone would suggest that you suddenly applied rates to the farming industry. Non-domestic rates run at 46p in the pound, is it, of rental value? No one would suggest that. Would a non-domestic rate of 1p in the pound make that much difference to the industry? It is worth thinking about.

Q791 Mr Reid: What is the point in setting up an administration to collect rates of 1p in the pound?

Professor Gallagher: Because over a prolonged period you could gradually increase them.

Q792 Mr Reid: What impact do you think that would have on the farmers?

Professor Gallagher: No tax is ever popular with the people who have to pay it.

Q793 Mr Reid: You said that three of the property taxes were devolved to Scotland and one—inheritance tax—is not. Is it practical to devolve inheritance tax?

Professor Gallagher: In principle, yes, I think it would be possible to devolve inheritance tax. It is a personal tax, and other personal taxes are devolved. People generally have a reasonably well-defined location for tax purposes; so, yes, it would. I would come at this not from the point of view of taxes in here, but from the point of view of what works as a devolved tax. The trouble with inheritance tax is that it doesn't raise very much money because of all those aforementioned exemptions, principally the exemption of domestic property actually. That is the one that means it does not raise very much. Certainly, the experience in Australia, where it is some time ago now that inheritance tax was decentralised, there was an immediate race to the bottom. Everyone went to die in Queensland—I think it was. That did not work for anyone because they all then had to reduce their inheritance tax. I see some practical challenges with devolving.

Q794 Mr Reid: Stuart, you do not have anything you wanted to add.

Stuart Adam: On the devolving inheritance tax point, as I said, in principle, you could devolve it. Which are more or less sensible taxes to devolve depends, to a reasonable extent, on how mobile your tax base is. You do have to worry about the issues of, yes, people moving to one place if they are going to die, or, for that matter, whether you would be able to avoid inheritance tax by having trusts that were based in the other parts of the UK. So you do need to think carefully about the practicalities.

In terms of being beastly to farmers, essentially my argument is an economic efficiency argument: I don't want land and property use to be distorted towards an untaxed form. Whenever you do that, there are going to be winners and losers from tax reform. In this case, if you just start imposing business rates on farmers, that would make them worse off, undoubtedly. You can alleviate that by phasing it in gradually. You can think about their access to loans and so on. I am not sure quite how well the capital markets work for these things. You can address those types of things, but, in the end, it would make them worse off. That, per se, is not my agenda.

In principle, I would be perfectly happy to say, well, let's take the revenue that you would raise by ending this tax relief and, rather than using it to reduce the general rate, let's hand it out as one-off lump sums to the existing owners of those properties. That is the compensation for the reduction in the value of your land, or, if you prefer, that is compensation for the tax bill that you are going to have to pay or the reduced rent that you will get over however many years. Whether that is the best use of revenue that you could devise for this is another matter. In principle, I have no particular axe to grind saying I want to hit farmers harder, but the current system does lead to inefficient allocation of assets and inefficient land use, and that is the bit that I want to get at now again. Whether one-off windfall giveaways are really a sensible way forward is another matter, but I am using that as an illustration rather than as a recommendation.

Q795 Mr Reid: But Europe as a whole has decided that there are good reasons why we have to subsidise our farming industry—that has been long established—so what is the point suddenly, for the sake of some economic theory, in penalising our farmers? They would—

Professor Gallagher: It is quite interesting that agricultural derating was introduced in the 1920s as a subsidy to farmers and is now a subsidy to farmers that no one notices is there. If it were the case, the logical thing to do would be to pay the tax and increase the subsidy as a result.

Q796 Mr Reid: But you would run into European problems there.

Professor Gallagher: There are lots of things you can do.

Stuart Adam: If you want to subsidise farming, there is still the question of what is the best way to do that. It is not obvious to me that a tax break that is, in effect, proportional to the rental value of the property occupied is actually the right way that we want to subsidise farming.

Q797 Mr Reid: Have you any counter-proposal?

Stuart Adam: You would want to ask what precisely the reason is that you want to subsidise it. What precisely is the activity you would want to encourage, and then let's subsidise that? If it is something about production, then subsidise farming production. If it is something about employment, then subsidise employment. If it is something about keeping the land in a nice condition by some definition, then subsidise that, but, whatever it is that you want to achieve, identify that carefully, define it and target that. It is not obvious to me that agricultural relief in business rates or inheritance tax is doing that.

Q798 Chair: Alan makes the point, as you might expect from a Member of Parliament with a substantial farming community, that this would be punishing the farmers. As somebody with no farmers in my constituency, is this not a case not so much of punishing farmers but of removing a privilege that farmers have had?

Stuart Adam: To some extent, yes, but not entirely. I would undoubtedly say my problem with it is that it is removing an advantage to farming as an activity. That is the thing about it; you are distorting economic activity in the country. In terms of whether it is of benefit to farmers, that is where I would say, when you announce these tax changes, broadly speaking, what you would expect to happen is that the land or property value changes on the day you announce it.

That means that in the 1920s, when this thing was introduced, whoever owned the land at that time said, "Great; my land has just shot up in value. I now own a more valuable asset than I did and/or it is more valuable because I can rent it out for more because whoever is occupying it does not have to pay it," which could of course be the farmer themselves. It may have been passed through the generations and therefore still be of benefit to that dynasty of farmers, if you like, but it could also perfectly well be that I as a farmer bought this land in the mid-2000s, or whatever it is, and I will have paid a higher price for that land because the lack of tax is reflected in the higher price for the land. So it is not necessarily the case that I am currently getting a benefit because, while I do not have to pay business rates, I had to pay more to buy the land in reflection of that. It is known in the economic literature as capitalisation.

The first lesson is: don't do things that get capitalised, because what ends up happening is you have big windfall gains and losses at the time you announce them, but for people who are buying and selling it years down the line that may well not be true. I wouldn't have a particular view as to whether you want to be more or less nice to farmers than we are at the moment. Again, I am not trying to come at this from a distributional fairness angle. What I would say is that the current system favours using land for farming rather than using land for other purposes, and I would need some convincing that that is what we want to do and that is the way we want to do it.

Q799 Mr Reid: If you increase taxes, as you suggest, would you anticipate that would mean an increase in the price of food?

Stuart Adam: Principally, no. Principally, I would expect it just to reduce the price of the land. One way to think about that is, if these farmers are still competing with, say, imported food to get into supermarkets, they cannot charge supermarkets any more to buy their food because they are still competing with the same competitors they had before. Even

if it is just all farms in Scotland, they are still competing on the same basis as before. What is happening is that there is a one-off hit that your land is worth less than it used to be because there is this extra tax to pay by whoever is occupying it and therefore they will pay less rent.

Q800 Mr Reid: But, as well as the land being worth less, there are also greater running costs on the business because the business has to pay these rates every year.

Stuart Adam: Sure.

Q801 Mr Reid: Are you suggesting then that it would have no impact on food prices and it would just mean that the farmers would have less income coming in?

Stuart Adam: Basically, yes.

Q802 Mr Reid: Do you think that would then reduce income so much that it would then force farmers out of business?

Stuart Adam: Whether it would force them out of business is a slightly different question. Whether it would force them out of business, it would have basically the same effect as if one day you said to them, “Okay, we are just going to put a one-off bill for £1,000 or £1 million”—whatever you care to do—“on your doormat.” Ultimately, it has that kind of effect.

Q803 Mr Reid: It is not a one-off bill; it is a bill every year.

Stuart Adam: Yes. That part depends on how the capital market functions, because in that sense it is a charge on your income you are going to have to pay every year, regardless of your behaviour. If the capital markets are functioning, then, in principle, fine; it is a one-off borrowing you have to do in order to be able to pay that bill going forward. As to the question whether simply making farmers or any other business worse off like that forces them out of business, if it is still a profitable, viable business, then they ought to be able to get loans and it is still better off doing that than they would be doing something else. If they had just run out of cash—ultimately, most businesses go under not because of lack of solvency but because of lack of liquidity—if they just don’t have the cash to pay it, then they presumably go under in the same way as any other business.

Q804 Mr Reid: One of your justifications was that it would make, you said, a more efficient use of land. That would seem to imply that we would have less people in farming and more people doing other things with the land. Is that what you would expect to happen?

Stuart Adam: Presumably, yes.

Q805 Mr Reid: What other things would you expect to replace the farming?

Stuart Adam: It depends. Again, to some extent the extent to which that can happen would depend on whether someone wants to buy the land to build an industrial park on it or whatever it may be.

Q806 Mr Reid: You are suggesting that the dairy farms in Kintyre will be forced out of business and that somebody else will come in and build an industrial park. Is that really what you think will happen?

Professor Gallagher: To be fair, of course this is not a perfect market, and the description that Stuart and I are giving is about the underlying economic system. Of course it is a very lumpy market, and of course land use is heavily constrained by planning and other things. You will see throughout the agricultural sector at the moment very strong pressure, for reasons completely unconnected with land value taxation, to diversify into other activities that produce income, because, if indeed the farmers are facing, as I am sure they are, falling prices for many of the things that they produce, then they already have a strong incentive to try and find something else to do. There has been a lot of diversification, much of it encouraged, of course, by Government subsidy of one form or another, but at least that is an

explicit subsidy. An important point which Stuart makes, which is worth reflecting on, is that, if you wish to subsidise farming, would you choose to subsidise the richest farmers the most?

Stuart Adam: Or who has the most property, which is not necessarily the same.

Professor Gallagher: Quite so.

Stuart Adam: My example of the industrial park was—

Q807 Mr Reid: The person that owns the farm with higher rateable value does not necessarily have the personal wealth. The two don't necessarily go together.

Professor Gallagher: It depends what you mean by "personal wealth." The value of the land is wealth.

Q808 Mr Reid: What impact would the change that you are suggesting have on tenant farmers?

Professor Gallagher: Again, in economic theory, it would go straight through to the owner of the land, depending on the contract they had with the owner and the rent review. The rent payable would have to be smaller because the tenant is—

Q809 Mr Reid: Tenancy clauses often have rules in them that rent reviews only go one way: they go up.

Professor Gallagher: Yes, but inflation usually takes care of that, even under the present Government.

Stuart Adam: I should emphasise that we are talking about the long run here. It may take some time for rents to—

Mr Reid: I am still not clear what the benefits are to society of what you are suggesting, but we could argue this all day, Chair.

Q810 Chair: I wonder if I could just ask a final couple of points about land value tax. The Mirrlees report says, and I quote: "The economic case for a land value tax is simple, and almost undeniable. Why, then, do we not have one already?"

Stuart Adam: Are you looking for an answer to that question?

Chair: I think so, yes.

Stuart Adam: The rest of the paragraph goes on partly to answer that. I think we have actually discussed a large part of the reason already.

Q811 Chair: It is just simply because it is so tough and it is such a drastic set of proposals.

Stuart Adam: Yes. There would be big winners and losers from it, and that kind of thing is always politically difficult. There are other things I could add to that. One thing is that the attention of officials and practitioners who are most closely involved in these areas—again, this applies across the range of taxation—tends to be on the minutiae of the current system and of small reforms that are proposed to it. Actually, it is just not that common for the policymakers to step back and really engage with these arguments. A third reason is that it depends on the kind of proposals being made. In the Mirrlees Review we were proposing replacing business rates in a revenue-neutral way. Other proposals have been just for adding a land value tax on top of everything else. In terms of political difficulties, that would be about as popular as any other additional tax that you introduced. Then there is a group of land value tax campaigners who argue, essentially, for the replacement of almost the whole of the rest of the tax system with a joint land value tax, and, therefore, those kinds of proposals get associated with the idea of land value taxation. Those are a range of political and perception—but not very good economic—reasons why the kind of proposal that we make in the Mirrlees Review for land value taxation does not happen.

There is a genuine obstacle to land value taxation, which is the practicality of valuing the land separately from buildings. That is a hard thing to do. When we talk to people with expertise in various aspects of that, I get astonishingly polarised views as to whether it will be quite easy or it would be next to impossible. I suspect the truth is somewhere in between, but it is undoubtedly a difficult thing to do. It is for that reason that we make the recommendation of introducing a land value tax with a big caveat of “subject to confirming practical feasibility.” The first thing that is needed would be a serious official review of the practicality of land value taxation and how you would go about doing it, looking at the kind of methodologies and techniques that are available, looking at what is done in other countries. Land value taxation is in place in some other countries, but I don’t know personally quite how satisfactory those systems are.

There is a genuine question about how accurately you could value land, and that is a genuine obstacle, but I am not convinced that that is the main reason why it has not happened. The main reason why it is not happening is because it is considered big and radical and slightly eccentric, and would create lots of losers, and therefore will all be too difficult and just does not get on the agenda very much.

Professor Gallagher: The economic argument for land value tax is a perfectly good argument. We must not let the best be the enemy of the good here. My own view is that there is always scope for more research and that research is to ascertain just how big a difference there is between land value and our present systems of taxation. The economic argument for not including the building is an argument which says that that disincentivises people making buildings, and buildings are a good thing because they represent economic activity. I kind of accept that, but I wouldn’t be too purist about it. I would make some estimate of just how far away our present land taxes are from what a land value tax would produce, and see what changes you would make to them to get them rather closer to it, rather than to move to a radically different system of taxation.

Stuart Adam: To come back on that, I would certainly say there are plenty of things that you could do that would be small incremental improvements on our current system of property taxation. That applies within business rates, council tax, stamp duty, inheritance tax, CGT and all the rest of it.

Q812 Chair: Give me five.

Stuart Adam: Give you five?

Chair: I was partly jesting there, but in what we are looking at in terms of land reform, rural land and so on, tell me a number of changes that you think could be made relatively easily that would help us in our overall objective.

Stuart Adam: I wouldn’t say relatively easily but I would say more modest reforms rather than a complete overhaul of the system, such as things like removing exemptions within the current system rather than having complete overhauls; things like having valuations that more closely reflect current values, which is obviously a huge problem with council tax and a bit of a problem with business rates as well. I don’t think it has been perceived as a rather bigger problem in the current downturn, but there are things you can do to make those more sensible.

Council tax could be made more proportional to property value, but that is not really the focus of your review. The kind of thing that Scotland has done on the land and buildings transaction tax is a sensible improvement on stamp duty, and I would like to see that elsewhere in the UK, but I would also like to see stamp duty gradually reduced and the other property taxes gradually increased to make up the revenue because stamp duty, or LBTT in

the Scottish case, even as reformed under LBTT, is the most damaging of the property taxes. If you could move in that direction, in the long run I would like to see no transaction tax there at all and entirely raised by recurrent value taxes.

In terms of the long run, one other thing to come back to and where I think Jim and I end up with slightly different positions, even for the long run, is this. While we would both like to see land value rather than property value as the basis for taxing business property—and I agree that, while it is better, I would not be that precious about that difference—the Mirrlees Review did not say the same for domestic property, where, essentially, we argued that we could see a case for taxing the buildings as well as the land, in effect as a substitute for the VAT that currently is not levied on housing. That is where, if you are thinking about the tax system as a whole, you do want to bring all of those together. We argued that, rather than moving council tax to be a land value tax but imposing VAT on housing, you can essentially envisage a reformed council tax substituted for VAT on housing. That is getting a bit outside the scope, but I thought I ought to make that distinction.

Q813 Chair: The difficulty for most of us is that this is not our life's work, and you made the point earlier on about the best being the enemy of the good and so on. Maybe it would be helpful, given what the thrust of our report is following, if you were able to reflect on whether or not there were particular changes that you thought ought to be more closely examined, because we are going to produce a report fairly soon on an interim basis, but then we will probably consider what other issues we want to pursue more vigorously in the second phase of our inquiry. This area might very well be one of them, but rather than, as I say, make this our life's work and last five years—is that how long you said the Mirrlees report took? I am not sure any of us want to spend that long. Sir Jim there is retiring, so he might very well want to commit us to five years of work, but the rest of us are not necessarily enthusiastic. However, we might be quite keen to look at some more incremental areas that would affect the question of land reform.

Stuart Adam: Sure. Our focus so far has not been on land reform. Clearly, in that sense, the things that are around agricultural land and property specifically are the obvious ones to focus on. One thing that you may want to be aware of is our annual green budget that we published at the IFS about a month ago. We wrote a chapter on business rates, which, relative to the Mirrlees Review, was more focused on the recent reforms and potential incremental reforms, and more looking at things like whether indexing multipliers in line with RPI inflation each year is the sensible thing to do. One thing that specifically looks odd in Scotland is the structure of small business rates relief, where, ironically, given the improvements they are making in replacing stamp duty with the land and buildings transaction tax, business rates in Scotland is designed in such way that having a £1 higher rateable value can be associated with a £2,000 higher business rates bill—in exactly the opposite direction from what they have done on LBTT. That seems a particularly peculiar one.

Now, again, that is an improvement to business rates. To what extent you want to relate that to land reform I don't know. If land reform is all about those things that are not currently subject to business rates, then the answer to that is to start taxing them. There are things that could be done relatively incrementally to make the business rates system better.

Again, another one in terms of incremental reforms is what in Scotland is called the business rates incentivisation scheme, giving local authorities incentives to get less and then keep part of the business rates revenue. In many ways that is a perfectly sensible idea, but the way it is structured is that there is a reset, which says that the local authorities get to keep half of the revenue until the next point of revaluation. That means that five years before a

revaluation they have a big incentive to do it. The year before a revaluation you would say, “Actually, we would rather discourage the development. We would rather delay it for a year because then we will get another five years’ revenue from this.” It would be much more sensible to design that scheme so that local authorities got to keep half the revenue for a five-year period rather than until a given calendar date.

There are lots of things like that that you could do to improve the current system of property taxation over and above the long-term aims about how you think these should be designed. Again, as to the link between that and land reforms specifically, land reform is not an area that I claim expertise in.

Sir James Paice: Chairman, what we have established is that all taxes distort behaviour, so the simple solution is to abolish the lot.

Q814 Chair: Yes, you are retiring at the next election. I can understand that. On that happy proposal, put forward by our Conservative member, could I thank you for your evidence?

The final point that we always make is whether or not there are any points that you feel we haven’t covered, but I don’t think you have many views left unexpressed.

Professor Gallagher: I think that is right, Chair.

Q815 Chair: We have covered almost everything. Is there anything else that you want to add?

Professor Gallagher: No.

Stuart Adam: No.

Chair: Could I finish by apologising for delaying the start of the meeting and thank you very much for the evidence that you have given us, which we have found most helpful.