



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

**Air Passenger Duty: Departmental
Briefing**

2 May 2012

NORTHERN IRELAND ASSEMBLY

Committee for Finance and Personnel

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Members present for all or part of the proceedings:

Mr Conor Murphy (Chairperson)
Mr Dominic Bradley (Deputy Chairperson)
Mr Roy Beggs
Mrs Judith Cochrane
Mr Leslie Cree
Mr Paul Girvan
Mr David Hilditch
Mr William Humphrey
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Paul Maskey

Witnesses:

Dr Veronica Holland	Department of Finance and Personnel
Mr Bill Pauley	Department of Finance and Personnel

The Chairperson: We have Bill Pauley, head of strategic policy division; and Dr Veronica Holland from the Department of Finance and Personnel (DFP) to give us some evidence. The legislative consent motion is in the packs, and people may want to ask questions about what has been tabled as much as about the wider debate that has arisen from the issue. I invite either Dr Holland or Mr Pauley to make some opening comments, and then we can get into the discussion.

Mr Bill Pauley (Department of Finance and Personnel): Thank you, Chair. At a previous session, we covered quite a few of the policy issues, and I am happy to go over those again with the Committee as necessary. We had understood that today's session was to scrutinise some of the provisions of the Bill, which, as members will know, is in four parts. The first Part gives effect to the cut in air passenger duty (APD) that is to take place from 1 November 2011 and, if you like, sets the current rate. Part 2 raises those rates with effect from 1 April 2012 in line with the rates that have been introduced throughout the UK. Part 3 is the key bit for us as it is the bit that devolves the power to Northern Ireland, and people may want to look more closely at the relevant sections of that. Part 4 of the debate is where it extends the powers to the business jet. The duty will not apply to business jets in Britain until 1 April 2013, but this makes provision for our business jets to be taxed in the same way. We are discussing an element of this with the Government at this time to make sure that the default for a luxury private aircraft is twice the standard prevailing rate for the Assembly, because the current draft of the legislation does not put that in place. While I am not a lawyer, we are happy to look closely

at the different parts of the legislation, including the schedules and the explanatory memorandum, to see what it is trying to do.

The Committee raised a number of issues in the Committee Clerk's notes to us of 23 April and 25 April. When we answer and respond throughout the session, members should be aware that, when we dealt with this last year, we dealt with overlapping but separate issues on air passenger duty. The Minister had an immediate concern about the direct link between Belfast International Airport and Newark. That issue arose towards the end of 2010, and Ministers started to correspond with the Government in January 2011 to ask for help with that issue, and much correspondence was exchanged with the Government around then.

The second issue was that the Government then launched a consultation on APD generally. That was launched alongside Budget 2011 and ran for the three-month period after that. The Department submitted a response to that in the context of the wider views on the duty as a whole. However, throughout that time, there was an urgency about the first issue, and it would be fair to say that the existence of the consultation at a point in time did cause the Government to respond to us to say that they were considering all parts of the APD as part of their consultation. For a time, our urgent issue was in danger of not being addressed quickly enough to meet our needs in that area. That ran through the two separate exercises.

A question was asked about the Scottish arrangements. As you have heard, that argument was based on the low population density of the Highlands and islands of Scotland. That argument did not apply here, and we could not match those arguments for an exemption from air passenger duty.

Government Ministers recognised very quickly the difficulty that we faced with our direct long-haul flights, and we had discussions with them about having a separate exemption from APD for Northern Ireland for that type of flight. It was really discussions with Europe that ended all possibilities of that. No measure or mechanism that we felt could be put in place to resolve that issue in Northern Ireland was felt to be state-aid compliant, and the most legally sound case that could be made to help us do it was to devolve the powers for those flights in line with the EU Azores requirements. As members know, that was what the Chancellor announced. In his announcement of a reduction in the duty from 1 November 2011, he made it very clear that this is the first part of a process that is beginning towards devolution of the powers.

The Committee also asked whether the Finance Bill can be amended to extend the powers to band A. The difficulty in amending the Finance Bill 2012 to extend those powers is that the policy position has not been agreed, either here or with the Government. Before a change can be made to the draft legislation, the Executive need to agree their position on that type of proposal. We need to ask the Government for it and see whether they will agree to devolve such powers to us. Personally, I do not believe that that can be done in the timetable for the Finance Bill 2012, which will be agreed in Westminster before the summer, with Royal Assent given by the autumn. I do not think that agreeing the policy will be straightforward. It is £60 million per annum. Members talked about the business case, and no doubt we will come to that. The phasing suggestion was made as well. Phasing might help in the early years, but eventually we will reach £60 million per annum, so it is an implementation option rather than anything else, that is, of course, if we reduced it for those other band A flights, which is correctly stated as a separate decision that could be taken.

I turn to the legal issue as to whether the powers can be taken within that. In considering the options for devolving the powers to meet Northern Ireland's needs, there was consideration by Treasury of perhaps devolving greater powers to include all long-haul flights from Northern Ireland. I am aware that Treasury officials took legal advice as to whether that different option could be done through a Finance Bill amendment, or whether it would be considered a constitutional issue. The Northern Ireland Act is the legislation that specifies the powers devolved, reserved and excepted. The question is whether the change would be so big that it would require a change to that Northern Ireland Act. From discussions with Treasury officials, I understand that no definitive position was taken as to whether it would require such a change, or as to where the tipping point would be regarding when a change to the Northern Ireland Act would be required. So, I cannot say that I know that a change for greater powers would require a change to the Northern Ireland Act. To my knowledge, that position was never taken definitively in Treasury.

I sought legal advice on the issue from our departmental solicitors. It was confirmed that the amendment, as proposed in the Finance Bill 2012, will give us the powers that we need in a manner that will allow us to set the rates for direct long-haul flights but, again, there was no definitive position taken as to when devolution of powers becomes a constitutional issue, as opposed to a simple tax issue. So, I do not have a definitive position as to where it would change.

There is a timing issue, and as I understand it, it is quite simply a parliamentary one. Parliamentary time would be required for any amendment to the Northern Ireland Act, but none is scheduled until the latter half of 2013, when it is intended that some changes and amendments will be made to that Act.

I have covered some of the wider points, and I am happy to take questions.

The Chairperson: Thank you very much. You said that part of the timing issue is due to the parliamentary legislative timetable, but you also said that part of it was to do with the fact that neither the Executive nor the Government at Westminster had adopted a view on the policy about the wider devolution of APD. Did DFP respond to the Westminster Government's consultation on APD generally?

Mr Pauley: Yes, it did.

The Chairperson: In its response, did it argue for devolution of APD or did it simply address the issue of the long-haul flights?

Mr Pauley: The question asked in the Government's consultation document was the wider one. In that, it said that DFP would wish to give more consideration to the proposal to devolve APD and to have further discussions with the Government about possible devolution of the duty.

The Chairperson: Was that an Executive or DFP position?

Mr Pauley: That was the DFP position.

The Chairperson: Does DFP have a requirement on that? When it is responding to a consultation on powers to be devolved to the Assembly, does DFP have a requirement to seek an Executive view as to what powers should be devolved, or does it simply give its own view?

Mr Pauley: This submission was made on behalf of DFP.

The Chairperson: But, there is no requirement on DFP? If the Westminster Government are asking about the devolution of further powers to devolved Assemblies, and a single Department can give a definitive response without going through the rest of the Executive for clearance, how can clearance for the Executive in asking for the devolution of APD powers now be a timing difficulty that prevents that happening?

Mr Pauley: If we were to ask for the powers to be devolved, it would have to be cleared by the Executive. Indeed, the seeking of powers around direct long-haul flights was cleared by the Executive.

The Chairperson: Are you saying that the response to the consultation does not require Executive clearance even though DFP was expressing the same view — that it would be interested in the devolution of APD?

Mr Pauley: This particular submission was not cleared by the Executive.

Mr Cree: Interesting.

The Chairperson: That raises all sorts of questions, not just for this Committee, but for the Executive.

A constitutional question arises over whether, if there was a broader devolution of APD, it may be beyond the scope of a finance Bill and would be in the scope of a Northern Ireland Act amendment, although you do not have any clear view on this, and nor, it appears, does the Treasury. Is the devolution of corporation tax powers going to be done through an amendment to the Northern Ireland Act or through a separate Bill?

Mr Pauley: My understanding is that, while we do not as yet have a definitive legal position as to which Acts will be amended, consideration is being given to the fact that there would have to be finance Bill provisions for the tax elements of that change nationally, but that the devolution element would probably require an amendment to the Northern Ireland Act.

The Chairperson: For corporation tax?

Mr Pauley: For corporation tax.

The Chairperson: When that is being done, and just as a matter of timetabling, is it possible to address the wider devolution of APD at the same time?

Mr Pauley: That would be possible if the policy approvals were in place. That same Northern Ireland Act timetable, if it is to include corporation tax, which we hope it will, could include other provisions as sought and agreed by the Executive and the Assembly with the Government. I am not sure exactly what the other political amendments under discussion for the amendment of it are, but the current time that has been set aside in Parliament has not been set aside for corporation tax or air passenger duty; it is for what I understand are some tidying-up elements within the Northern Ireland Act itself. Time has been set for that, and whatever was agreed with the Government on the issues that fall under that Act could be done together.

The Chairperson: I have one final question. When DFP made a case to the Executive for the long-haul flights, the Executive could make that case to Treasury or to the Westminster Government. Was that on the basis that it had already concluded that this was the only thing available in the time frame? Was it on the basis that DFP informed the Executive it had already expressed an interest in full APD transfer, or how was that case put to the Executive that made them decide to go with only the limited transfer at this time?

Mr Pauley: In my introduction, I referred to the two things partly happening at the same time. During the summer of last year, the situation with the direct long-haul flights became critical because of decisions that were to be taken by the airline in very early September. The Executive agreed, under their urgent procedures arrangements, to write to the Government highlighting the extreme urgency of the position that we faced and asking them to respond in whatever way they could to help avoid the loss of that particular flight. The Executive agreed effectively the letter that was sent to the Prime Minister with that request. The letter concluded by saying that, if the Government could not find a mechanism within the national framework of air passenger duty that, in summary, would not cost us anything in terms of it being a devolved power and, therefore, the block grant would not have to be adjusted, could they devolve the necessary powers to us so that we could take the action that would help to save that particular flight.

The outworking of that was an announcement from the Chancellor saying that the power for direct long-haul flights would be devolved. That followed discussions with the European Union about whether, for example, the Government could give us some form of exemption for such flights based on arguments around our close proximity to an airport from another EU member state and the lack of alternative transport mechanisms for us to commute to and from the rest of Britain.

The Chairperson: Did the Executive make that case in the knowledge that there was an ongoing consultation on APD in which DFP had already expressed an interest in the devolution of all the powers?

Mr Pauley: The Executive knew of all the issues that were in the submission that DFP made to the Government's consultation at that time. So, they were fully aware of all the issues that we had raised

with the Government as part of our response to the consultation. The submission that was made referred to that and to the summary position as outlined in the original paper.

Mr Cree: Did the Executive agree with DFP's analysis about full devolution?

Mr Pauley: The letter was sent to the Prime Minister asking for urgent action to save the flight and, if necessary, the devolution of the powers that would help us take that action. As I said, the outworking of that letter was the Chancellor's announcement.

Mr Cree: I am not just talking about long-haul flights; I am talking about all APD being devolved. The DFP opinion was that that should be done. Are you saying that the Executive were aware of that? Did they condone that?

Mr Pauley: The Executive were aware of the different elements of air passenger duty, and they were aware of the different potential costs of devolution to the block grant, or the different amounts by which the block would have to be reduced. We were aware of the cost relating to direct long-haul flights, which the Government have rounded up to £5 million.

Mr Cree: Was that a tacit agreement with the DFP submission?

Mr Pauley: The Executive have agreed that. They have also agreed to seek the legislative consent motion and to the position that we agree to the devolution of those taxes on this basis as proposed by the Chancellor subsequent to that. They agreed the position to ask for the powers to be devolved, but that was completely in the context of the direct long-haul flight.

Mr Cree: That is different; that is not the argument I am advancing. It is the other side of that — the full APD and DFP's attitude towards it in its submission to Treasury. You say that the Executive were aware of that. Did they, therefore, consent to it?

Mr Pauley: In those papers, the Executive did not confine a request for devolution. They did not say, for example, "Please devolve only long-haul flights to us." They asked for the necessary powers to be devolved to allow us to take the action that was necessary to protect the direct long-haul flight that existed. It was a request to the Prime Minister for help and action to save the flight that operated at that time.

Mr McLaughlin: We are debating whether the measures go far enough. Everyone recognises the time pressure and the absolute necessity to protect the North Atlantic route, which was under significant pressure. However, we have a situation where the Northern Ireland Affairs Committee in Westminster has effectively taken a position that all APD, to and from this region, should be abolished. In a sense, it is ahead of us, and our Department does not seem to have reflected that in its approach. I find that a bit strange.

Mr Pauley: The submission that DFP made to the broader consultation took a strong position in relation to the duty as a whole; namely, that it was an unfair tax that damaged regions, including Northern Ireland, disproportionately because of its proximity to another airport and the lack of transport options. It indicated that we wanted to explore further with the Government the future of that duty.

There is nothing about the duty that I want to commend to the Committee. It is damaging to us — disproportionately damaging. When we ask for it to be devolved, it will come at a price, whereas the Government were consulting about the future of the duty itself. The DFP response to that consultation also made the point that the original rationale for that duty, which was as an environmental tax, was gone because of the new EU scheme. So, it no longer had its rationale.

The Government have been unashamedly explicit in saying that APD is now firmly a revenue-raising measure. We took the position that it did not meet the necessary criteria for a fair tax. Other regions of the UK took the same position. There were over 500 responses to the Government's consultation. By far the largest number of responses, in line with the Government's request, were on the impact of this duty on regions — not just devolved regions but regions like Manchester and others. The

Manchester area had a concerted campaign, and over 300 responses from the north-west of England were about how the duty damaged that region in particular. Our feeling was that the Government should review APD and how it is applied in its entirety, rather than moving immediately to a position where we devolve it and then take whatever action we would. However, in so doing, that costs us —

Mr McLaughlin: You said it comes at a cost. What exactly do you mean by that?

Mr Pauley: The block grant would be reduced by an amount equivalent to the level of duty raised, under the EU's Azores ruling.

Mr McLaughlin: Within the Finance Bill or the legislative consent aspect of it, if we get, effectively, the devolution of the power, which is applied for initially and primarily in defence of the North Atlantic route, that will result in an immediate cost that is either absorbed or calculated. The range of other options would have cost implications if we were to deploy them but none if we did not. So, whatever about the broad argument on the principle of this tax, its original and current purpose and people's view on all that, are we, in fact, simply going for a short-term fix without addressing the long-term strategic issue of, given our peripheral location, the impact of the tax on our economic well-being?

Mr Pauley: The request that we made was to deal with a particular issue in the short term.

Mr McLaughlin: A short-term fix.

Mr Pauley: The wider issue was addressed as part of a consultation response, and we indicated that we hoped that it would be taken further. The Government did not respond to their consultation document until they made their autumn statement. We submitted ours, and the closing date was either the end of August or the end of September. Some months later, the Government gave their response. It was possible that their response could have looked at APD in the broader regions, for the UK as a whole or, indeed, for the separate question of devolving the powers to Scotland, Wales and Northern Ireland. As it turned out, their response on those questions was simply to say that they will continue to keep the issues around the rebalancing of the UK economy under review in relation to the duty. It was a very bland response, but it could have been different.

Mr McLaughlin: I think the debate about the wider strategic implications of the devolution of the power around tax-varying powers was developing.

Mr Pauley: We needed the Chancellor's announcement earlier for the other issue.

Mr McLaughlin: Bill, I have never been clear on whether they took the wind out of our sails by saving the North Atlantic flight, and, in fact, we dropped the ball on the other powers. Ultimately, we may not implement the powers if they are devolved because we might decide, in our wisdom, that we cannot afford it. However, there was an opportunity. You have explained the legislative timetable, and there will be some tidying up of the Northern Ireland Act, and there will be room to, if necessary, amend the Act in relation to corporation tax powers. Obviously, it is also entirely possible to build in any reference to APD. So, that would have been done in due course. There were short-term timeline issues that had to be addressed.

Mr Pauley: We could not have reduced the rate to zero. There is a commitment in the Programme for Government to reduce the rate to zero as quickly as possible, but we cannot do that until we have the powers for the element that we want to reduce.

Mr McLaughlin: I know.

Mr Pauley: The Department hopes to bring a Bill in early autumn.

Mr McLaughlin: It will be difficult to get Treasury's attention on the issue again, because it is likely to say, "Are you back again? Did we not sort out that problem?" That is where we had our eye wiped. We were looking at the broader picture, fully cognisant that a cost factor had to be balanced against

the opportunity of economic development. In other words, we were trying to develop an invest to save option, but we seem to have been bypassed somewhat.

Mr Pauley: Ministers have expressed their appreciation to the Prime Minister and to the Chancellor for the work that they have done in responding to the question of giving us the powers to help us respond to the difficulty that we face. They appreciated the personal interventions.

Mr McLaughlin: The Assembly and, I think, the Executive were discussing this in the wider context, as they were other fiscal measures, including corporation tax, but the Department, in effect, took a much more focused approach to a particular pressure, which was the North Atlantic long-haul route.

Mr Pauley: At the time of asking for the change, yes, the submission made to the consultation on air passenger duty was a DFP submission, but all Executive Ministers, when taking the decision that they did in requesting this, were aware of the issues and the same analysis that was in the background to the position in the submission that DFP made to the consultation by the Government.

Mr McLaughlin: That reinforces my original point. I think we need to do some economic modelling to inform people's perspective on the value or otherwise of having wider devolution as opposed to that which is simply being presented to us.

The Chairperson: It seems to me that the position might be the reverse of what you said. DFP had a previous view that, if the British Government were not going to scrap APD, it would be better for us to have it, yet when the emergency arose, the Executive ended up, on whoever's advice, with a very narrow view on what was required, and that is what they put to the British Government.

Mr Girvan: Thank you for your presentation this morning. I appreciate that we are in a unique position in Northern Ireland because of our border with the Republic, which is able to operate at a lower level of APD and will ultimately reduce it to zero on all flights. I also appreciate how that is going to impact on Northern Ireland and how we compete as a region to ensure that we can attract more than just inward flights from other areas in North America, including Canada, and wherever else. However, the point is that it will cost us £60 million if we go down the route of the total removal of APD over a period, whether it is phased or otherwise.

I know the Executive made a decision to deal with the long-haul flights. That was the first major crisis in relation to the Continental route that we had to deal with. That is why we had to move very quickly on that point. In the previous presentation, the Netherlands and the loss to their economy of €1.3 billion overall was mentioned. That was lost through flights because they were close to other international airports that were able to offer similar facilities. It is just the business case. The Federation of Small Businesses, the Association of British Travel Agents and others gave evidence, but I am wondering if, from a business point of view, there has ever been a body of work done to say how we could benefit if we were to totally devolve APD. I am not advocating that we do so with carte blanche now, but could a case be made to say that we could afford to lose £60 million from the block grant because we would have a net gain to our local economy of, for example, £120 million? Those are the arguments that need to be made.

We have made it the issue that we are willing to take the hit of the £5.8 million for the North Atlantic route, and we can work on the basis that we retain it and encourage additional providers to come in and deal on that as well. Scotland got an exemption for their islands. I wonder whether they lost anything from their block grant by accepting the zero APD on the Scottish islands flights? Ultimately, they could build a fantastic international airport on one of the Shetland Isles, and decide that all they have to do is take a wee hop down to Aberdeen and that is it sorted out. Did they lose anything on that basis?

Mr Pauley: I do not know definitively what they lost. I was not party to the Scottish Government's negotiations, but my understanding is that there was no adjustment to their block grant as a result of the Highlands and islands situation. That is an exemption that applied to population density in any area of the UK.

Mr McLaughlin: And peripherality.

Mr Pauley: Yes, but not at the levels —

Mr Girvan: The unique situation of Northern Ireland comes from our proximity to another international airport that can offer the same facilities. For a two-hour run down the road, a family can save £260 by flying out of Dublin.

Mr McLaughlin: We found out last week that you can travel from Coleraine. Is that not right?
[Laughter.]

Mr Pauley: It is my belief that the Government accepted the arguments about our lack of alternative transport options in relation to this duty and the difficulty that was being caused by our proximity to an area that did not have air passenger duty at the same levels as us. In accepting those arguments, the Government discussed with Europe what possibilities existed for a type of exemption for Northern Ireland that might be compliant with EU state-aid legislation. However, the conclusion was reached that the most sound legal position as regards state-aid legislation was for us to devolve the powers in line with the Azores requirements. When that is done, it is definitively not state aid. To give certainty to all the stakeholders who were interested in how this was being done, if we had proposed a mechanism that, for example, an airline's legal team felt was not compliant with state aid and might lead to them having to repay, it would not have worked. Legal certainty is obtained by the devolution mechanism.

Mr Girvan: The other question that arises from going down this route is whether we are effectively allowing those that provide and deliver those services to make the difference up? We see how they capitalise on positions, and we have seen what happened with the upcoming Heineken Cup and how prices have been adjusted to accommodate the need. If a reduction is made, what mechanism is in place to ensure that it is passed on to the end user? There are airline companies that have probably suffered and taken a hit for a while, but if new providers emerge, can they jump in and take advantage of the previous pricing structures without passing on the tax that would have otherwise been raised? What mechanism do we have to deal with that?

Mr Pauley: It is very difficult to deal with that. You referred a little earlier to the fact that the South intends to reduce its rate to zero. That has not yet been done, and, as I understand it, they are discussing how it might be done with Europe in relation to some of the conditions that the Irish Government hoped to attach to it. The Irish Government had hoped that the airlines that benefited from it would develop some new routes, but that was beginning to look like an air access development fund as opposed to a tax measure duty. I do not know what point those discussions with Europe have reached, but they are conditions, and attaching conditions to a reduction in duty takes you into potential state-aid issues where you are using what you are reducing as a means of stimulating a route.

Mr Girvan: We are not dealing with something that has not been encountered by other EU countries. A number of them did introduce APD and have since abolished it. On what basis were they able to do that and what were their arguments? Did they put conditions in that the savings would be passed on, or did they ensure that additional routes were added or established as a result? We cannot get all the answers, but those are the sorts of questions that I would like answers to.

Mr Pauley: I know that there are very specific EU rules on funds. We used to have a fund, and indeed, our direct flight to North America came on the back of an air access development fund that was operated by the Department of Enterprise, Trade and Investment (DETI). There are very strict EU rules about such funds and what assistance you can offer to airlines, either to use your airport or to establish a route in your region. This is a very competitive area and one where Europe looks very closely at both the stated intentions of the measures put in place and their impact.

Mr Beggs: Thank you for your presentation. I, for one, wish to put on record my appreciation for the work that DFP officials and the Executive have done in saving long-haul routes and the potential to start others.

With respect to the possible widening of airport-passenger duty exemptions, or removing APD, two things would need to be in place. One is a very solid business case to justify it, and the second is a willingness by the Treasury and Government to devolve it. We were given indications in our briefing packs that various bodies think that there is a business case for removing it. Has DFP a specific business case analysing the benefit and the effect, and stating whether public money should be used to remove APD if it is devolved? Should DETI money be used, because of the greater benefit to the economy generated by investing in this rather than in something else? Did the Treasury or Her Majesty's Government express any views on widening this? We need to have that or it might be going.

Mr Pauley: DFP does not have, or normally require, what we would call a business case for an expenditure decision of this magnitude. Our DETI colleagues have done some analysis of the impact of APD on passenger numbers that they shared with us when we were preparing the submission that we made in response to the Government's consultation document. We consulted with other Departments at that time. Some analysis was done, which concluded that there was a greater impact on passenger numbers from the direct long-haul rate than there was on the band A type rate, but that relates, I believe, solely to the difference in quantum. The direct long-haul rates of duty are much higher than those for the band A flights.

As to Her Majesty's Treasury's (HMT's) willingness, I think it was, in discussions with Europe, prepared to consider at least some options slightly greater than what we have here. For example, it was prepared to consider potentially the option of all long-haul flights, rather than just direct long-haul flights. All long-haul flights would include those where people leave from a Northern Ireland airport but use a double lift — take off from somewhere else — flying through London, Glasgow or even Schiphol. The way APD works is that, if your flight originates in the UK, they can potentially charge for it if they can get the data and if you leave to go to a final destination in any of the band B, C, or D routes. So, HMT was certainly prepared to look at that option.

Earlier, the researcher referred to the long-time ongoing discussions about the devolution of APD with Scotland, which foundered, as I understand it, on whether it should be a per passenger or per plane tax. Whether HMT would agree to a request to devolve all of APD, I do not know. The response to the wider consultation, in devolving it to all areas, is the only stated policy position that I have seen from the Government, and that is perhaps neither positive nor negative; it says that the Government will continue to look at the issues around rebalancing the economy.

Mr Beggs: Would you agree that having a solid, robust business case was an important element in gaining what we have gained? It has been at a cost, but nevertheless, I suggest most people agree that it would bring a big benefit to the local economy. Having a robust business case would be a necessary first step before going any further in order to try to convince, not only our local people, but others who would have to agree. If DETI has already done some work on this, perhaps we as a Committee could request that the Committee for Enterprise, Trade and Investment provides any information that is available.

Mr Pauley: The business case would be necessary for an expenditure [*Inaudible.*]

The Chairperson: I wonder why the Treasury or Government went out to consult on devolving APD if they were not clear in their view that it was something they wanted to do? Are they agnostic about it now? They went out to consult and ask people what they thought of devolving APD powers, but now they seem to have withdrawn from that position. The consultation was on a proposal to devolve APD.

Mr Pauley: It asked for views on the devolution of air passenger duty powers and what they would be. It had a separate question, as I understand it, on the impact of air passenger duty on regions as opposed to the bigger hub airports.

Mr D Bradley: Did I take you up right when you said that, if consideration was to be given to the possible transfer of the wider powers, there would probably be time between now and the parliamentary slot available for amendments to the Northern Ireland Act at the end of 2013? Would there be enough time between now and the end of 2013 for that process to take place?

Mr Pauley: If we are to deal with any corporation tax change in that Act, with the decision not having been taken yet, I cannot see any reason why not.

Mr D Bradley: Was a case made for an exemption for Northern Ireland on a similar basis to that achieved by the Highlands and islands?

Mr Pauley: In the request we made to the Government for help to deal with the issue that we had, we referred to that as an existing exemption and asked for an arrangement. We did not ask for the same arrangement because that would not have worked. We asked for a type of arrangement that would allow an exemption for Northern Ireland so that we could deal with the issue we were facing.

Mr D Bradley: According to the Government's response, how did we not fulfil the requirements needed for an exemption?

Mr Pauley: The Government, in their discussions with Europe, did not have a single identifiable criterion that could be applied throughout the UK that would exempt us. The Highlands and islands one does not really exempt the Highlands and islands, although the legislation now lists those airports, but exempts the airports as they serve regions with a population density of, I forget the number, but it is because of that criterion rather than them being Highlands and islands.

Mr D Bradley: So, that population criterion was accepted?

Mr Pauley: It is a criterion that applies to the UK tax system for APD throughout the UK. Any area of the UK that has that type of population density would, as I understand it, have that exemption. It is just the Highlands and islands.

Mr Cree: So, the Copeland Islands are in, are they?

Mr Pauley: I have not seen the airport.

Mr D Bradley: Is population the only criterion that is used?

Mr Pauley: My understanding is that one was population density.

Mr D Bradley: Is it population density only?

Mr Pauley: I think so, but am I not certain as I respond to you.

Mr Humphrey: It has to be remembered that this is an environmental tax. It seems to me that a Conservative Chancellor in a Tory-led Administration will not relax it without a robust business case, as has been mentioned. The Government will take a view on APD similar to that which they take on fuel and cigarettes, for example.

I am not so sure that a business case is sufficient. We heard evidence from the travel industry and the chief executives of the two airports a couple of weeks ago. When asked about it, they said that the cost of the removal of APD to the Northern Ireland Executive would be in the region of £50 millions to £60 millions. I asked the Minister that question the other day in the Chamber, and he said that it was somewhere between £60 millions and £90 millions. We have to be absolutely clear that, if we get a relaxation of this, the cost to the Northern Ireland Executive will be huge. It will cost the health service, education, roads and every Department. Where will that money come from? As I said that day, we need a robust piece of work which suggests that it will be of financial benefit to Northern Ireland to do it.

If you take the high-water mark of £90 million, you need to have a huge number of tourists coming here and people travelling to pay for it. What we should be looking for is APD to be scrapped, as opposed to having to pay for it to be relaxed. At the end of the day, if other countries, some of them much more

tourism-friendly than ours, have taken the decision to scrap it, I imagine it is because it has affected the likes of the tourist industry.

We hear about Europe and about the strict European rules, but some of the best and most enthusiastic members of the European Union are those that flout or ignore the rules of Europe most frequently. I sometimes wonder what applies to the Italian Government vis-à-vis Sicily and Sardinia or the French Government vis-à-vis Corsica. Are there pieces of work across Europe that suggest that Governments take a different view to pieces of land or islands off their shores but which are a part of their nation?

Mr Pauley: Let me clarify the figure of £60 million. That is a rounded figure that Treasury gave us as an estimate of the duty that would be applicable from 2010-11. If you look at that figure and apply the projections of tax take, which the Office for Budget Responsibility and the Treasury publish with the Budget, out to, I think it is now 2016-17, in relation to duty, and, if our share of that was to rise in line with them, you would see that it would rise towards the figure of £90 million. That is the basis of that figure.

I do not know about the issues around APD in relation to islands off those countries of Europe. I am not sure that Italy, for example, has APD in relation to its islands. However, I know that, from its regional policy-type approaches to things, Europe has issues around mountainous areas and outermost regions, for which it is prepared to consider higher levels of, for example, structural funds assistance in order to aid development. It is a term that Europe uses in its language quite frequently.

The Chairperson: OK. I will ask a couple of questions about the Finance Bill. There is a provision to restrict further disclosure of information on APD provided by Revenue and Customs to the Secretary of State, the Treasury and, obviously, subsequently to DFP. Does that have implications for what we are talking about: the preparation of a robust business case in relation to that? The restriction of that type of information is one of the proposals in the Finance Bill.

Mr Pauley: My understanding is that that relates to data protection-type issues, such as those around individual operators, rather than analysis data, such as total levels of duty, averages or answers to questions like, "How much revenue could we expect if we were to increase or decrease the rate?"

The Chairperson: Will that apply in England as well?

Mr Pauley: It will. We will be signing, separately, a memorandum of understanding with HM Revenue and Customs (HMRC). We would have to pay HMRC for some of the administration costs. Let me clarify slightly something Mitchel might have said, which was that, if we were to reduce, there would be no cost. If we are to collect any revenue from this, there is an IT cost. The administration costs estimated by HMRC are really quite low for what is effectively not collecting any duty, under what we are proposing to do. If we were to set a positive rate of duty, there would need to be investment in some computer systems, and that might be in the region of £500,000. So, it is not huge. We will be signing a separate agreement with HMRC about data protection and the confidentiality of taxpayers.

The Chairperson: The Bill includes provision to give statutory effect to rate reduction from 1 November 2011 to 31 March 2012. Why is that necessary? Are there any legal issues arising from the Bill having a retrospective effect in that way?

Dr Veronica Holland (Department of Finance and Personnel): I think that the intention of that provision is, effectively, to give legal effect to the decision taken. They need to have the legal cover to do what they have brought forward.

The Chairperson: What is the position from 1 April this year until the time when the Bill is enacted?

Mr Pauley: That is in Part 2 of the Bill, which is where it rises to £13. It goes up by £1. Part 1 of the Bill makes it £12 for a direct long-haul flight from 1 November 2011 to 31 March 2012. Part 2 makes that 13 quid until such time as we, after Parts 3 and 4, devolve, and the intention is to reduce that to zero.

The Chairperson: Do those increased charges apply at the moment, as of 1 April?

Mr Pauley: It will be £13. The band A rate is that which applies to direct all long-haul flights, and that increased from 1 April to £13.

Dr Holland: It is £13 for the standard economy class, and £26 for business class.

The Chairperson: But that will only apply to Assembly Members then, will it not?

There are no other questions. Thank you.