



House of Commons
Committee of Public Accounts

The Duchy of Cornwall

Twenty-fifth Report of Session 2013–14

Report, together with formal minutes, oral and written evidence

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Committee of Public Accounts

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The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at www.parliament.uk/pac. A list of Reports of the Committee in the present Parliament is at the back of this volume. Additional written evidence may be published on the internet only.

Committee staff

The current staff of the Committee is Adrian Jenner (Clerk), Claire Cozens (Committee Specialist), Sonia Draper (Senior Committee Assistant), Ian Blair and James McQuade (Committee Assistants) and Alex Paterson (Media Officer).

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Contents

Report	<i>Page</i>
Summary	3
Conclusions and recommendations	5
1 The Duchy of Cornwall	7
2 The role of the Treasury	9
Formal Minutes	11
Witnesses	12
List of printed written evidence	12
List of Reports from the Committee during the current Parliament	13

Summary

The Duchy of Cornwall (the Duchy) delivered a good financial performance in 2012–13, increasing its total income and also its net revenue after taking account of costs. However, the Treasury is not doing enough to scrutinise the Duchy’s financial strategy or transactions—it does not independently verify information offered by the Duchy, and details of its approvals for the Duchy’s land transactions over £500,000 are not published. The Duchy has a Crown Exemption from tax, but there is no clear understanding of any consequences for its competitors, which are subject to corporation and capital gains tax. The transparency of The Prince of Wales’s tax payments is limited by reporting only a combined amount for income tax and VAT. The Duchy’s charter rules that each future Duke of Cornwall will be the eldest *son* and heir of the Monarch, which is out of line with the Succession to the Crown Act 2013.

Conclusions and recommendations

1. The Duchy's principal activity is management of the land and properties which make up its estate to provide an income for the present and future Dukes of Cornwall. In 2012–13, the Duchy reported a total income of £28.8 million and a surplus of £19.1 million. No corporation tax is payable on this £19.1 million surplus. The surplus is distributed as income to The Prince of Wales, the current Duke of Cornwall. After taking account of £1.2 million income from public sources and £11 million in expenses for carrying out official duties, this gave a remaining surplus of £9.2 million, on which The Prince of Wales voluntarily paid tax. The combined total of income tax and VAT paid by The Prince of Wales was £4.4 million.
2. **We welcome the Duchy's success in achieving an increased revenue surplus.** In 2012–13, the Duchy reported a total income of £28.8 million and a net revenue surplus (that is, after deducting costs) of £19.1 million; compared with the previous year's figures of £26.5 million and £18.3 million respectively. The Duchy attributed this success to its taking a long-term view in its financial strategy, its investment in commercial, high-quality and innovative schemes, and careful diversification of its range of assets. The Committee visited Poundbury and was impressed by the quality of the built environment and the long-term commercial approach taken by the Duchy to the development and its portfolio. The Duchy is currently planning an urban extension to Newquay, for which it has arranged to use some of the developers it employed at Poundbury.

Recommendation: *The Duchy should apply the good practice employed and lessons learned from developing Poundbury into its proposed urban extension at Newquay.*

3. The Duchy's charter has not kept pace with constitutional change. The Duchy estate was created in 1337 and the charter ruled that the Duke of Cornwall will be the eldest surviving son of the Monarch, and the heir to the throne. The Succession to the Crown Act 2013 has made succession to the Crown no longer dependent on gender, in contrast to the Duchy's charter whereby the Duchy reverts to the Crown in the absence of a male heir.

Recommendation: *The Duchy would benefit from being brought into the present-day to allow a female heir to the British Crown to bear the title 'Duke of Cornwall'.*

4. The Treasury does not do enough to scrutinise the Duchy's financial strategy. The Treasury is required to ensure that the Duchy maintains the long-term value of the estate; for example, it has to approve any proposed land transactions over £500,000 (approvals are known as 'Section 11' warrants) and to check that the Duchy has a commercial approach to its business. However, the Treasury does not carry out its own independent checks on the information provided to it by the Duchy. For example, it does not seek its own independent evidence on whether the Duchy's proposed land sales or rents charged are at the market price. Instead the Treasury simply relies on the Duchy to provide it with accurate information or for the Duchy to commission its own checks. There are no details published in the Duchy's

accounts of the Treasury's approvals of proposed land transactions over £500,000, of which there are around 15 a year.

Recommendation: *The Treasury should publish its process for scrutinising the Duchy's strategy and proposed land transactions, its methodology for validating information offered by the Duchy, and arrange for the Duchy to publish details of Section 11 warrants in its accounts.*

5. There is no clear understanding whether the Duchy's Crown Exemption from corporation tax and capital gains tax produces adverse consequences for competitors which do pay these taxes. The Duchy is engaged in a range of business activities like other commercial enterprises, with the difference that other businesses are subject to the usual rules on corporation and capital gains tax. This tax exemption might mean that competing businesses do not have a level playing field on which to operate. The Duchy and the Treasury pointed out that the Duke of Cornwall does, voluntarily, pay income tax on income derived from the Duchy, and that the Duchy's tax position had been accepted by Parliament.

Recommendation: *The Treasury should examine the impact on the marketplace of the Duchy engaging in commercial transactions while exempt from tax.*

6. The transparency of The Prince of Wales's tax payments could be improved by reporting separate amounts for income tax and VAT. After allowing for official costs, The Prince of Wales and The Duchess of Cornwall Annual Review 2013 showed a surplus of £9.2 million in 2012-13, on which The Prince of Wales voluntarily paid income tax. The combined total of income tax and VAT paid by The Prince of Wales was £4.4 million. This amount was not broken down into its two elements and so it is not transparent precisely how much, and what rate of, income tax is paid by The Prince of Wales (though we acknowledge the Duchy having told us that the vast majority of the £4.4 million is income tax).

Recommendation: *The Prince of Wales and The Duchess of Cornwall Annual Review would benefit from disclosing separate figures for income tax and VAT.*

1 The Duchy of Cornwall

1. In 1337, Edward III created the Duchy of Cornwall as a private estate to provide an income from its assets for future Dukes of Cornwall. The Duchy's principal activity is management of the land and properties which make up its estate.¹

2. The Duchy performed well in 2012-13, reporting a total income of £28.8 million and a surplus of £19.1 million, compared with the previous year's figures of £26.5 million and £18.3 million respectively.² No corporation tax is payable on its surplus. The surplus is distributed as income to The Prince of Wales (the current Duke of Cornwall) in part to fund his and his family's public, charitable and official duties. After taking account of £1.2 million income from public sources and £11 million in expenses in carrying out official duties, this gave a remaining surplus of £9.2 million. In 2012-13, The Prince of Wales paid a combined total of £4.4 million in income tax and VAT.³

3. The Duchy attributes its financial performance to successful investments, which have diversified its assets. It told us it has a long-term perspective, and invests in high-quality assets which achieve a premium value compared to other developers. The Duchy has also achieved increases in the income from its assets—for example in 2012–13, it was able to raise agricultural rents by 4%.⁴ The Duchy told us that Cornwall council had asked the Duchy to provide land to make a park-and-ride scheme available, along with a food-hall for Cornish food products, and a Waitrose supermarket. The Duchy outlined its proposal for an urban extension to Newquay. It told us that it planned to continue using some of the developers at Poundbury for work at Newquay, where those developers had experience of building to the Duchy's required code. The Duchy confirmed that it intended to ensure the Newquay development suited the local Cornwall environment.⁵ In 2012–13, it made a £4 million capital gain from the sale of agricultural land, which it reinvested.⁶

4. Under the Duchy's charter, the title 'Duke of Cornwall' is held only by the eldest surviving *son* of the Monarch and the heir to the throne. The Duchy told us that where the Monarch does not have a son and heir, the title of 'Duke of Cornwall' reverted to the Crown. In such a case, the Duchy would become the Monarch's private estate. This is despite the Duchy's primary function being to provide an income from its assets to the heir to the Crown. The Duchy told us that its charter could be amended, as titles were a matter for the Royal Prerogative.⁷

5. In March 2013, the government published an updated 'Memorandum of Understanding on Royal Taxation' setting out the arrangements under which the Monarch and The Prince of Wales make voluntary tax payments. It replaced and superseded a Memorandum from

1 Duchy of Cornwall website: www.duchyofcornwall.org

2 Duchy of Cornwall Financial Statements, 31 March 2013

3 The Prince of Wales and The Duchess of Cornwall Annual Review 2013, Income and Expenditure Account

4 Qq 210-213, 218

5 Qq 235-237

6 Qq 221-224

7 Qq 3-10

1993. The Memorandum restated that The Prince of Wales is not legally liable to pay income tax on the income from the Duchy. It stated that the Duchy is not liable to pay income tax, capital gains tax or inheritance tax as it is a Crown body subject to Crown Exemption. The Memorandum set out the rules for determining the income of the Duchy on which The Prince of Wales voluntarily pays income tax. This was defined as the net surplus earned in a year, less the aggregate of the payments made to meet official expenses, the costs of maintaining property and estates relating to their use for official purposes, and any other expenses incurred by The Prince of Wales and his family in connection with official duties.⁸ The Treasury stated that in 1993, Parliament had looked at the Duchy's tax position in great depth when the earlier Memorandum was prepared, and that Parliament had then accepted that the Duchy's exemption from tax was fair.⁹

6. The Treasury explained that The Prince of Wales could not be in business in his own right and could not build up his own income. The Treasury regarded the Duchy's commercial enterprises as an integral part of The Prince of Wales's own work establishment. The Treasury felt that it would not be logical to provide a grant to the members of the Royal Family, to enable them to fulfil their duties, and then impose tax on their income.¹⁰

7. In 2012–13, The Prince of Wales received an income of £19.1 million from the Duchy, and £1.2 million income from public sources. He declared that £11 million of costs were incurred in carrying out official duties for himself, the Duchess of Cornwall, the Duke and Duchess of Cambridge, and Prince Harry.¹¹ The Duchy told us that, as set out in the 'Memorandum of Understanding on Royal Taxation', these costs were offset against the Duchy's surplus in a similar way to how a business offsets its business expenses before determining its taxable income.¹² The Prince of Wales paid income tax voluntarily on the remaining surplus of £9.2 million from the Duchy. In 2012–13, The Prince of Wales paid a total of £4.4 million in tax.¹³ The Duchy told us The Prince of Wales paid income tax at the prevailing top rate on the remaining surplus. The Duchy was not clear why The Prince of Wales reported a combined figure of tax paid, rather than separate figures for income tax and VAT, but understood that The Prince of Wales had always done so.¹⁴

8 *'Memorandum of Understanding on Royal Taxation'*, HM Government, March 2013

9 Q 43

10 Qq 43, 90-91

11 The Prince of Wales and The Duchess of Cornwall Annual Review 2013, Income and Expenditure Account

12 Q 102

13 The Prince of Wales and The Duchess of Cornwall Annual Review 2013, Income and Expenditure Account

14 Qq 96-102

2 The role of the Treasury

8. The Treasury is required to oversee the Duchy's financial transactions, and to ensure that the Duchy maintains the estate's capital for future beneficiaries. The Duchy can only carry out land transactions over £500,000 if it has received approval from the Treasury.¹⁵

9. The Duchy is engaged in a range of business activities like other commercial enterprises, with a difference that other businesses are subject to the usual rules on corporation tax and capital gains tax. It was not clear to us whether the Duchy's Crown Exemption from tax in its commercial investments and activities may produce adverse consequences for competitors which do pay these taxes. In the Treasury's view, the Duchy's Crown Exemption from tax did not lead to adverse consequences for other enterprises. The Duchy indicated that it would not be inclined to offer advantageous terms to those with whom it did business as a result of its tax exemptions. This was because the Treasury required the Duchy to operate in a commercial manner, to generate a surplus for The Prince of Wales and maintain the value of the estate. The Duchy felt this would prevent any adverse consequences to competitors.¹⁶

10. The Treasury highlighted that, as the Duchy always reinvests all capital gains, it would not be required to pay capital gains tax even without its exemption from tax. The Treasury mentioned that the Duchy is in a similar position to property companies, as it suggested they also tend to reinvest the majority of capital gains. The Treasury also explained that The Prince of Wales receives the entire surplus from the Duchy as his income, and that he voluntarily pays income tax on the residual surplus from the Duchy. Therefore, if the Duchy paid corporation tax on the surplus and additionally, The Prince of Wales paid income tax on this surplus, he would effectively be taxed twice.¹⁷

11. The Treasury told us that, while it looks at whether the Duchy has a commercial approach that will safeguard the capital value of the estate, it does not aim to second-guess the Duchy's strategy. The Treasury outlined its oversight of the Duchy's strategy, which included meetings with the Duchy to consider whether its strategy was commercial, and whether the Duchy was using its property efficiently enough.¹⁸

12. While the Treasury has a responsibility to oversee the Duchy's financial transactions, and it has to approve the Duchy's transactions over £500,000, it told us that it does not carry out any independent check on the Duchy's contract values, to confirm if the Duchy has agreed a market price for sales or rents. The Treasury's position is to leave the burden of proof with the Duchy. The Treasury admitted that it simply asks the Duchy itself if it is achieving a commercial return, or in some cases asks the Duchy to carry out its own checks or to commission checks and then pass them to the Treasury.¹⁹

15 'Duchy of Cornwall Financial Statements 2013', June 2013

16 Qq 42-43, 60-63

17 Qq 43-53

18 Qq 120, 228

19 Qq 120-122

13. The Treasury explained that when it was content with a transaction proposed by the Duchy, it put it forward to the Lord Commissioners to sign into a warrant (these are known as ‘Section 11’ warrants) which allowed the transaction to take place. However, it was not able to offer us details of any independent scrutiny it had carried out on any proposed transactions. The Treasury stated that it had dialogue with the Duchy before granting approval and that this included asking for proof of an arms-length price. The Treasury confirmed that there had been no occasions when it had declined approval to the Duchy to proceed with a purchase or sale over £500,000, but claimed that, on occasion, its dialogue had resulted in the Duchy carrying out a transaction on different terms from those initially proposed.²⁰

14. The Treasury’s approvals for the Duchy’s sales and purchases over £500,000 (‘Section 11’ warrants) are not published in the Duchy’s accounts. The Duchy told us that it received around 15 Section 11 warrants a year. The Duchy does publish the Treasury’s ‘Section 7’ warrants. It receives a Section 7 warrant when a transaction might not be at market value, or it may not give a commercial return. The Duchy received two Section 7 warrants in 2012–13.²¹

20 Qq 123-128

21 Qq 129-132

Formal Minutes

Monday 14 October 2013

Members present:

Mrs Margaret Hodge, in the Chair

Mr Richard Bacon
Chris Heaton-Harris
Mr Stewart Jackson
Fiona Mactaggart

Austin Mitchell
Nick Smith
Ian Swales
Justin Tomlinson

Draft Report (*The Duchy of Cornwall*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 14 read and agreed to.

Summary agreed to.

Conclusions and recommendations agreed to.

Resolved, That the Report be the Twenty-fifth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report (in addition to that ordered to be reported for publishing on 15 July).

[Adjourned till Wednesday 16 October at 2.00 pm]

Witnesses

Monday 15 July 2013

Page

William Nye, Principal Private Secretary to their Royal Highnesses the Prince of Wales and the Duchess of Cornwall, **Keith Willis**, Finance Director of the Duchy and **Paula Diggle**, Treasury Officer of Accounts, HM Treasury

Ev 1

List of printed written evidence

1	Republic	Ev 22;Ev29
2	Principal Private Secretary to HRH The Prince of Wales and The Duchess of Cornwall	Ev 26
3	The Duchy of Cornwall	Ev 27

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2013–14

First Report	Ministry of Defence: Equipment Plan 2012-2022 and Major Projects Report 2012	HC 53
Second Report	Early Action: landscape review	HC 133
Third Report	Department for Communities and Local Government: Financial sustainability of local authorities	HC 134
Fourth Report	HM Revenue & Customs: tax credits error and fraud	HC 135
Fifth Report	Department for Work and Pensions: Responding to change in jobcentres	HC 136
Sixth Report	Cabinet Office: Improving government procurement and the impact of government's ICT savings initiative	HC 137
Seventh Report	Charity Commission: the Cup Trust and tax avoidance	HC 138
Eighth Report	Regulating Consumer Credit	HC 165
Ninth Report	Tax Avoidance – Google	HC 112
Tenth Report	Serious Fraud Office – redundancy and severance arrangements	HC 360
Eleventh Report	Department of Health: managing hospital consultants	HC 358
Twelfth Report	Department for Education: Capital funding for new school places	HC 359
Thirteenth Report	Civil Service Reform	HC 473
Fourteenth Report	Integration across government and Whole-Place Community Budgets	HC 472
Fifteenth Report	The provision of the out-of-hours GP service in Cornwall	HC 471
Sixteenth Report	FiRe Control	HC 110
Seventeenth Report	Administering the Equitable Life Payment Scheme	HC 111
Eighteenth Report	Carrier Strike: the 2012 reversion decision	HC 113
Nineteenth Report	The dismantled National Programme for IT in the NHS	HC294
Twentieth Report	The BBC's move to Salford	HC293
Twenty-first Report	Police Procurement	HC115
Twenty-second Report	High Speed 2: a review of early programme preparation	HC478
Twenty-third	HM Revenue & Customs: Progress in tackling tobacco smuggling	HC297
Twenty-fourth Report	The rural broadband programme	HC474

Oral evidence

Taken before the Public Accounts Committee

on Monday 15 July 2013

Members present:

Margaret Hodge (Chair)

Mr Richard Bacon
Stephen Barclay
Chris Heaton-Harris
Meg Hillier
Mr Stewart Jackson

Fiona Mactaggart
Austin Mitchell
Nick Smith
Justin Tomlinson

Amyas Morse, Comptroller and Auditor General, **Gabrielle Cohen**, Assistant Auditor General, **Paul Keane**, Director, National Audit Officer and **Marius Gallaher**, Alternate Treasury Officer of Accounts, were in attendance.

Examination of Witnesses

Witnesses: **William Nye**, Principal Private Secretary to their Royal Highnesses the Prince of Wales and the Duchess of Cornwall, **Keith Willis**, Finance Director of the Duchy, and **Paula Diggle**, Treasury Officer of Accounts, HM Treasury, gave evidence.

Q1 Chair: Welcome. Let me start by saying it is not our job to make policy. We want to reflect on the current arrangements to see whether or not they reflect the reality of the world today. I really do not know the answer to this one, but I was thinking about it last night. We are waiting for the birth of the new baby to the Duke and Duchess of Cornwall. If the baby turns out to be a little girl, and if and when the Duke becomes the monarch, will that little girl become the Duchess of Cornwall?

William Nye: She will not become the Duchess of Cornwall under the present charter, as it is at the moment. I think you are referring to the Duke and Duchess of Cambridge's child.

Q2 Chair: Absolutely. Thank you for correcting me. The reason I ask the question is that it brings me to the heart of what I am really interested in. The fact that were this little baby to be a girl, she would never become the Duchess of Cornwall demonstrates to me that there is a separation between the Duchy of Cornwall and the post holder, whoever is heir to the throne, particularly as we are now in the process of changing the rules. Is that correct or not?

William Nye: No, I do not think that that is correct. There would be a Duke of Cornwall.

Q3 Chair: Who would be the Duke of Cornwall?

William Nye: The Sovereign would be the Duke of Cornwall. Under the charter as it stands, either the Duke of Cornwall is the eldest son and heir of the Sovereign, or the Duchy of Cornwall reverts to the Crown until there is an eldest son and heir. Of course the charter could be amended; titles are a matter for the royal prerogative, but the Duke of Cornwall would be the Sovereign and the Duchy of Cornwall, the Duke of Cornwall's private estate, would become the Sovereign's private estate. At the moment, when the Duke of Cornwall is the Prince of Wales, it is still the

Duke of Cornwall's private estate and it is the Prince of Wales' private estate.

Q4 Chair: Thank you for that information in regard to the constitutional position. It still strikes me from that answer that there is a separation, which is at the heart of what I want to explore with you, between whoever is heir to the throne and the Duchy of Cornwall, which was established to provide an income to whoever is heir to the throne. They are separate entities—they must be, just from what you yourself have just told us. The Duchy of Cornwall would then become the property of whoever is monarch at that time, but that is separate from whoever is heir to the throne, who would be, if it is a little girl, that little girl, grown up and flourishing.

William Nye: The Duchy of Cornwall is always called the Duchy of Cornwall. It is called the Duchy of Cornwall in the charter and in subsequent legislation. It is easier to understand the Duchy of Cornwall as the Duke of Cornwall's estate. The Duke of Cornwall's estate belongs at present to the present Duke of Cornwall, as it has to previous Dukes of Cornwall and occasionally to the Sovereign, when the Sovereign held the Duchy. The Duke of Cornwall manages his estate. It is an unusual estate, because it is prescribed in a royal charter of 1337 and there is some legislation pertaining to it, so it is not exactly the same as every other private landed estate, but it is a private landed estate. He manages it and is responsible for running it. He receives the income from his estate, but the capital, the assets of the estate, he has to maintain for future dukes.

Q5 Chair: I understand all that, but I thought that one of your key arguments, when we look at the way the Duchy of Cornwall is treated in terms of taxation and other issues, is that the Duchy of Cornwall does not have separate legal entity from the Duke of Cornwall. Are you not arguing that?

William Nye: I am saying, since you ask, that it is not a separate legal entity. It is the Duke of Cornwall's estate, in the same way as if you own a house and rent it out, unless you choose to establish a separate limited liability company to own that house and you own the company, it is your house and you are renting it out; that is not separate from you. On a rather larger scale, because the Duchy of Cornwall estate is rather larger, the Duke of Cornwall rents out properties—

Q6 Chair: I am sorry to interrupt you, but I do understand that. The Duchy of Cornwall is established to provide an income to the heir to the Crown. That is right, isn't it?

William Nye: Yes, it is.

Q7 Chair: To that extent it therefore became inseparable from the heir to the Crown. If, in the scenario that I have just laid out, the new baby is a little girl who eventually becomes heir to the Crown, at that point the Duchy, with all its income and assets, becomes the property of somebody else. In that context, it must have a separate legal entity from the person who is heir to the Crown.

William Nye: No, the charter of 1337 provides that the Duke of Cornwall's estate should be the property of the eldest son and heir.

Q8 Chair: Yes, but when there is not one?

William Nye: When there is not one, it provides that it is the property of the Sovereign.

Q9 Chair: Yes, so it is separate. If it becomes the property of another person and not of the person who is heir to the throne, it is a separate legal entity from the person—the individual—who will become our next monarch, who is at that point heir to the throne.

William Nye: I am sorry, Chair, perhaps I am not explaining it very well. The charter provides that when there is an eldest son and heir, that person is Duke of Cornwall. When there is not an eldest son and heir, the Sovereign is the Duke of Cornwall. At all times, the Duke of Cornwall's estate belongs to the Duke of Cornwall.

Q10 Chair: But the Duke of Cornwall's estate was established to provide an income to the heir to the throne.

William Nye: When there is an eldest son and heir. It was in 1337, when attitudes were rather different.

Q11 Chair: Okay. I hear what is going on. Let me ask you another question. If the Duchy does not have a legal being—it is not a legal entity, which I think is much of the argument put forward in this context—how can the Health and Safety Executive issue an improvement notice against the Duchy of Cornwall?

William Nye: The Duchy of Cornwall, as I say, is the Duke of Cornwall's estate, and the property that it owns is in the name of the Duke of Cornwall. The Accounts Directions and the Acts require it to produce things saying, "Duchy of Cornwall", and it acts on the Duke of Cornwall's behalf.

Q12 Chair: But there must be a legal entity, a legal person, against whom the Health and Safety Executive has the power to issue a notice. There must be. I am trying to drive two questions—one is that they are separate, which you do not accept, and I am now on to a second issue, which is that the Duchy of Cornwall is a separate legal entity. All sorts of issues around taxation flow from that.

William Nye: I may be corrected by Mr Willis, but I think that when the Duke of Cornwall enters into litigation, is litigated against, or has notice against him, things are delivered either to the Duchy Office, pertaining to him, or indeed to what is called rather grandly the Attorney-General to the Prince of Wales, who acts legally for the Prince of Wales, for the Duke of Cornwall.

Q13 Chair: But how does the HSE have the power to take action if the Duchy does not have its own identity? What does the HSE take action against?

Keith Willis: Effectively, it is taken against the Duke of Cornwall.

Q14 Chair: Who is the heir to the throne, or the monarch?

William Nye: Yes.

Q15 Chair: But that does not make the Duchy a legal entity for any other purposes.

William Nye: No, I do not believe it does.

Q16 Chair: A bit muddled. Let me try another one. It is a very confused area, at best. Let us get some things you would accept. Would you accept that you are the chief executive of this organisation?

William Nye: I am not the chief executive of this organisation.

Chair: You have described yourself as such.

William Nye: I have not, I'm afraid, Chair. I am the Prince of Wales's Principal Private Secretary.

Chair: But there is a chief executive of the organisation.

William Nye: I am a member of the Prince's Council—

Q17 Chair: Okay. Who is the chief executive of the Duchy of Cornwall?

William Nye: The closest thing to a chief executive is the Secretary and Keeper of the Records.

Chair: He would describe himself as chief executive?

William Nye: He would describe himself as the closest thing to the chief executive.

Q18 Chair: You would accept that the people who are employed by the Duchy pay their PAYE, there is a staff code and you act as an employer?

William Nye: Certainly.

Q19 Chair: You would accept that the chief executive of the Duchy of Cornwall is also the data controller under the Data Protection Act?

William Nye: I believe so, although I am not familiar with that particular point.

Q20 Chair: The Duchy can sue and can be sued?

15 July 2013 Duchy of Cornwall and HM Treasury

William Nye: The Duchy is sued from time to time, although—

Q21 Chair: Okay. You do not accept the judgment of the Information Tribunal that you have a separate legal entity, do you?

William Nye: We do not accept the view taken in the judgment you are referring to by the first-tier tribunal in a particular case pertaining to the environmental information regulations.

Q22 Chair: Explain why to me.

William Nye: The thrust of the case was about whether or not the Duchy of Cornwall was a separate public authority. The reason why we are contesting the first-tier tribunal's finding is that the Duke of Cornwall does not consider the Duchy of Cornwall is a public authority. That case has been appealed by the Attorney-General to the Prince of Wales, and it is currently stayed, but no, we have not accepted the ruling, and we do contest it.

Q23 Chair: This raises an interesting question. If the Duke of Cornwall was the monarch and the Duchy was part of the monarch's responsibilities and titles, could the courts take action against the monarch?

William Nye: There might still be an Attorney-General. The situation has not prevailed since 1952, which rather pre-dates the Freedom of Information Act and the environmental information regulations, so it has not been tested.

Q24 Chair: But you could have legal action being taken?

William Nye: I think it would be the same as it is for the Duchy of Lancaster, which of course is the other royal Duchy and is also an employer.

Q25 Chair: I will tell you what worries me a little bit. Let me give an example: the Duchy of Cornwall has established a new partnership with JV Energen.

William Nye: Yes.

Q26 Chair: That is a renewable energy plant, isn't it?

William Nye: It is, yes.

Q27 Chair: It is not making money yet.

William Nye: It is quite new, so it is not making much surplus yet, no.

Q28 Chair: Okay. It is a limited liability partnership, so in normal circumstances it would pay income tax and capital gains tax on profits.

William Nye: The participants would pay whatever tax is due, certainly.

Q29 Chair: Now, I am not sure whether it is the Duchy or the Duke in this instance, but one has a 54% shareholding in the company.

William Nye: The Duchy of Cornwall, which I am using as shorthand for the Duke of Cornwall's estate, has invested capital in JV Energen.

Chair: 54%?

William Nye: I have to look to Mr Willis on that.

Keith Willis: 54%, yes.

Q30 Chair: Thank you. If and when, as we hope, this company makes profits, will the Duchy of Cornwall pay any capital gains tax on the profits and proceeds?

William Nye: The Duke of Cornwall will pay income tax on the profits and proceeds.

Q31 Chair: Will the Duchy of Cornwall pay any capital gains tax on profits and proceeds?

William Nye: The Duchy of Cornwall does not pay capital gains tax, because the Memorandum of Understanding on Royal Taxation establishes that capital gains tax is not payable. The Duke of Cornwall does not pay capital gains tax because he does not have access to the capital gains, which are all reinvested in the Duchy for the benefit of future dukes, as is required.

Q32 Chair: I understand that. The reason I raised that issue is this: do you think that there is an element of unfairness when the Duchy of Cornwall invests in an undertaking that is bound to be competitive with other renewable energy companies in the UK, but, because of its special status, does not pay corporation tax on profits and proceeds? Other energy companies—assuming that they do not go in for great big tax avoidance schemes, which they might well do—would be liable for capital gains tax on proceeds and profits. Do you consider that there is an issue about fairness and about having a level playing field in the economy arising out of that example?

William Nye: I do not believe that it is unfair, no.

Q33 Chair: Why?

William Nye: I am not sure that it is really my place to comment on fairness overall, but, as you have asked me, the overall arrangements for royal taxation for the Queen and the Prince of Wales are set out in the memorandum of understanding.

Q34 Chair: I understand that; I am taking this as an example of an issue. You very carefully provided us with the memorandum, for which we are very grateful; I have read your report and accounts for two years, for which I am also very grateful. However, on this specific issue, when the Duchy decides to engage in a new area of activity where it will inevitably be competing with other players in the market, is it fair that you could gain a competitive advantage in that market from the Duchy not having to face capital gains tax on profits and proceeds?

William Nye: Overall, I think for most investments by the Duchy of Cornwall it is fair, because there is not any competitive advantage; I can talk about that if you like.

Q35 Chair: There is.

William Nye: If I may say so, for most investments, it is true that the Duchy of Cornwall—the Duke of Cornwall's estate—does not pay capital gains tax, because it is a requirement by law—

Q36 Chair: Can we stick to the example? That would be really helpful.

William Nye: If I could come to the example in a moment?

Chair: Yes.

William Nye: Thank you. Overall, that is broadly comparable with a wide range of other property-holding companies or organisations. In the case of this particular plant—you did ask, Chair, about this particular plant—it is an anaerobic digestion plant, built on Duchy land, invested in with the Duchy's assets, built for the long term. We have no particular plan to dispose of it. There have not been any capital gains to date and we have no particular expectation that there will be capital gains so, in that sense, I do not think that there is any particular unfairness.

Q37 Chair: I do not think that you have really answered the question. I hope that this little venture gets into profitability—I doubt that Chris Heaton-Harris thinks it ever will without lots of subsidies, but let us assume that it gets into a profitable arena. At that point, if this company is not facing a tax liability, that will enable you, perhaps, to manipulate your prices, which will give you a competitive advantage over other people operating in that market. Surely that must be correct?

William Nye: I can see what you are driving at. In the operation in the market, I really do not think that there would be competitive distortion. The point which you may be making—if I can try to play it back to you—is that, if the Duchy of Cornwall were to dispose of its holding—

Q38 Chair: No, it is not about disposing of the holding; it is an issue of when the company moves from the investment stage into profitability.

Mr Bacon: Capital gains would not be crystallised unless there were capital gains and there would not be a capital gain unless it was disposed of, so capital gains tax would not be relevant unless there were a disposal.

Chair: That is true, but corporation tax might be relevant.

William Nye: I agree with Mr Bacon; that is the point that I was trying to work towards. There would not be no capital gain—

Q39 Chair: Corporation tax?

William Nye: Corporation tax does not arise. As you know, because you have studied the papers, the Duchy of Cornwall is not subject to corporation tax. The Duke of Cornwall is subject to income tax, and he pays income tax on his income at the normal rates, in the normal way. He does not pay both corporation tax and income tax, and the Duchy of Cornwall is not a separate corporation.

Q40 Chair: But the fact that it does not pay corporation tax establishes a commercial advantage.

William Nye: The Duchy as a whole generates profits like other organisations. Other organisations pay tax on their profits at the rate of corporation tax. The Duke of Cornwall—

Q41 Chair: I am just focusing on this little entity that will be competing in a market. We will come on to the Waitrose warehouse in Milton Keynes, which gives you an income of over £2 million a year, and

the Holiday Inn in Reading. All of the Duchy of Cornwall's investments will give you, we hope, profits—in fact, it has been doing jolly well in a very tough environment.

William Nye: Thank you.

Chair: All that I am really questioning is, in that context, whether there is not a competitive advantage from the tax position to date.

William Nye: I do not believe that there is a competitive advantage overall. As I said, a number of the other bodies which operate in the property holding field benefit from various forms of reliefs—admittedly, those are separate from those that apply to the Duchy of Cornwall—under which they end up paying very little capital gains tax.

Q42 Chair: Paula, do you think that there is a competitive advantage—yes or no?

Paula Diggle: I do not, actually.

Q43 Chair: Why?

Paula Diggle: I do not have a great deal to add to what William just said, except for one thing: when the memorandum of understanding was put together 20 years ago, it was looked at in great depth. Parliament then accepted that that was a fair method of taxing the monarch and the prince—in effect, they regarded it as a question of balance. If the Duke of Cornwall were to be taxed on the corporate income of the Duchy as well as on his income, he would be taxed twice.

Q44 Chair: Why would he be taxed twice? Explain that to me.

Paula Diggle: Well, there would be taxation on the income of the Duchy—

Q45 Chair: But every corporation pays corporation tax and then the individuals pay income tax. Everybody does that.

Paula Diggle: But the Prince is in the unusual position of getting all the income. Parliament accepted in '93—

Q46 Chair: I accept that. Nobody is trying to challenge the constitutional settlement; we are trying to understand it, and the logic behind it. I cannot understand why you have told me that there is not a competitive advantage for the Duchy of Cornwall in not having to pay corporation tax on either the energy company or the Holiday Inn example in Reading, or the Waitrose warehouse in Milton Keynes, which they are leasing for over £2 million. Why is there not a competitive advantage?

Paula Diggle: Because pretty well every other company that holds property reinvests it.

Q47 Chair: So you are saying that no property company pays tax? That is a wonderful one.

Paula Diggle: I am not quite saying that, but they pay very little.

Q48 Chair: Well, there is something shockingly wrong with a system where you allow a lot of profits to be made out of property and you are not finding a way of taxing it properly, I have to say, if that is really

15 July 2013 Duchy of Cornwall and HM Treasury

what you are asserting to the Committee: no property company pays tax, so we won't charge this entity tax. That is shocking, shocking, shocking thing.

Mr Bacon: Because then it would be unfair. I think you've finally got it.

Chair: I think it is very unfair on the rest of us if a property company does not pay proper tax on the money it makes out of its investment portfolios. If you are saying the system is such that none of these property empires pay tax, so therefore the Duchy of Cornwall should not pay tax, that is a shocking thing to say.

Paula Diggle: But these companies do pay capital gains tax. As Mr Bacon has just established, the Duchy doesn't, because it always reinvests its capital gains.

Q49 Chair: Corporation tax, Paula.

Paula Diggle: It was understood in '93 that this was a fair balance, and there has been nothing to cause us to reconsider it since.

Q50 Chair: Can I again put it to you—finally, to see if I can get a straight answer—that I understand how it was established and why we are where we are, but do you think there is a competitive advantage, apart from your assertion that no property company pays any tax, to the Duchy of Cornwall from the fact that it pays no corporation tax on profits it makes from the entities we have been discussing—either its property interests or indeed and this renewable energy company?

Paula Diggle: I do not believe so.

Q51 Chair: Why? Explain to me why. I am really asking you to help me understand this.

Keith Willis: Perhaps I can help a little here. There are many property companies—she is quite correct—that pay very little corporation tax.

Q52 Chair: They avoid it, do they?

Keith Willis: They do not avoid it. It is distributed to shareholders who pay income tax, so it is transferred. It is tax-transparent. The burden comes off the corporation tax on to income tax for the recipient.

Q53 Chair: I have to tell you, Mr Willis, in the current context, where corporation tax is less than income tax, I do not believe that to be the case. I do not believe the property companies would arrange their affairs in such a way. I think you are asserting something and there is obviously something else going on in the property empire, which we may have to have a look at, but I do not think anybody would choose to pay income tax at 45%, rather than pay corporation tax at 23% or whatever it is at present.

Keith Willis: It is perfectly normal under the real estate investment trusts: British Land and Land Securities. It is very common within property companies and it is a common structure.

Chair: I just don't believe it.

Q54 Mr Bacon: Can I explore this a little further with Mr Nye? You mentioned, and the Chair mentioned, the energy company: the anaerobic

digestion and biomethane injection plant that we visited last week. From memory, I think about £6 million of investment went into it. It was a fairly impressive piece of kit. Presumably, whoever was making a like investment of that size would also be spending the same amount of money on capital investment—yes?

William Nye: I believe so, yes.

Q55 Mr Bacon: A biomethane injector and an anaerobic digester costs what it costs, whoever is buying it.

William Nye: Correct.

Q56 Mr Bacon: Am I right in thinking that when you later export renewable electricity to the grid, the price that is paid for that is also predetermined?

William Nye: It is certainly taken from the market outside. It is not something you can go and sell at different prices. You sell it at the price that you can get from the gas price.

Q57 Mr Bacon: And anybody building an anaerobic digestion plant, hoping to sell electricity to the grid, would face exactly the same conditions from the potential buyer when they were selling into the grid?

William Nye: Broadly speaking, yes.

Q58 Mr Bacon: So if there is an advantage somewhere, it is not in the investment itself and it is not in the price at which you can sell the electricity for either, is it?

William Nye: No, I don't believe there is.

Q59 Mr Bacon: So what we are really talking about is what then happens afterwards to the income and the way in which it is taxed, or not taxed. That is an interesting question, potentially, but it is a separate question from the conditions of the business and the amount that you have to put in in order to get out a certain amount, and the conditions upon which you sell—in this case—the electricity.

William Nye: I think I have to agree with you, Mr Bacon.

Q60 Mr Bacon: If you are selling into the grid, the price is determined by the market for electricity. To give you a different example, let's say a property investment business decided to pay for the building of a shopping centre, such as a Waitrose store and other stores, such as the Duchy or a different investor. The price of buying a fully equipped shopping mall that you could invest in and receive rental income from would be a given amount, no matter what your own individual status would be, wouldn't it?

William Nye: Subject to how well you can do the work and so forth, but yes.

Q61 Mr Bacon: And the income that you then get, whether you were a property investment management company located in the City or a private estate, would be the same. That is to say, it would be determined by the same factors—rental incomes in the marketplace and so on?

William Nye: Yes.

Q62 Mr Bacon: May I take it that—perhaps I’m wrong about this—because you might be ascribed as having some advantage later down the line, because some of the income is not taxed, would you then, in looking at your tenants, say, “Well, later down the line, we keep more of it because we’re not taxed in quite the same way; therefore, we’re going to give you a discount on your rent compared with other property investment managers and what they would charge you for rent.”? Is that how you operate?

William Nye: I think I see what you’re driving at, Mr Bacon, in the sense that if the Duke of Cornwall chose to use the income—the income he receives, not the capital side—to plough back into the business in some particular way, it might be possible to obtain some advantage with particular tenants. As it is, he is required to operate commercially, and we have Mrs Diggle here to make sure that he does operate commercially and at least doesn’t disadvantage future dukes. Instead, of course, he, as you know, chooses to use his income to pay for his public duties and the public duties of his family.

Q63 Mr Bacon: But in terms of the getting of the income, it is not as if he either does or can offer a discount to tenants such as Waitrose on the basis that—

Chair: Why not?

Mr Bacon: This is what I want to explore. It sounds to me as if the assertion might be that because of the tax treatment that he later gets, he is in a position to offer a discount to tenants such as Waitrose that others aren’t in a position to offer, but you sound like you are saying he can’t do that and the main reason he can’t do that is that the Treasury are making sure that he acts commercially, so he offers the same terms and conditions in a competitive market that any other landlord that might be a commercially owned landlord, like an investment management company, would offer. Is that right?

William Nye: There are two or three separate elements here, if I can just untangle them slightly. The Treasury is making sure that the Duchy of Cornwall operates, if not fully commercially, at least for the benefit of future dukes and does not disadvantage the assets. The income is taken and taxed. The Prince of Wales pays tax in the normal way on his income and pays at the income tax rate, and he uses the money not, as it were, to undercut other people; he uses it to pay for his public duties and the public duties of his family.

But also the third element, which I think probably Mr Willis was driving at with regard to corporation tax, is this, although I’m not a tax expert. The comparison is quite complicated. I don’t genuinely believe that there is overall an unfairness, because the Duchy of Cornwall is not instituted as a corporation. Parliament has not legislated to make it a corporation, but if you did and it paid corporation tax at 23% and then the Duke of Cornwall paid income tax at something like 30% with a tax credit, this is not so very different from the 50% tax that he pays anyway, so although I am not saying it is identical—it certainly isn’t—it is not hugely out of line.

Q64 Chair: We will come to his tax in a minute; we are just trying to explore the entity. Do you actually look at the rental income or do you just look at the sales? Do you actually look at what rents are set?

Paula Diggle: Yes, I do.

Q65 Chair: You look at the rents that are set. How do you assess them, with all the other work you are doing?

Paula Diggle: I ask them whether these are a proper commercial return.

Q66 Chair: You ask them. What checks do you yourself do?

Paula Diggle: Well, I quite frequently ask for other checks provided by them—

Q67 Chair: By them?

Paula Diggle: Independently.

Q68 Chair: Do you do any independent assessment?

Paula Diggle: Well, I ask them sometimes for independent checks that they acquire for me.

Q69 Chair: But if we are, as we are now, in a property slump, it would be better to let it, wouldn’t it, even if it is a slightly lower rent, than to leave it empty?

Paula Diggle: That is a question of a nice judgment.

Q70 Chair: But if there is a tax advantage that allows you to let it at a lower rent, you would endorse that, wouldn’t you?

Paula Diggle: And so would many property companies be willing to do, for exactly the same reasons.

Q71 Chair: No, but you would endorse that if there was a tax advantage?

Paula Diggle: Yes.

Q72 Chair: If there’s a tax advantage?

Paula Diggle: No, no; I am not talking about tax. I am talking about making a commercial return. I satisfy myself—

Q73 Chair: But one of the reasons they can make that decision is that there may be a tax advantage?

Paula Diggle: No, I satisfy myself that they make a commercial return. That’s what I’m after.

Chair: Well, if they make a commercial return, it might stay empty.

Q74 Nick Smith: I will put a couple of questions to Mr Nye and then one to Paula Diggle. I want to tackle the issue of perception and fair play.

Mr Nye, if it looks like a duck and quacks like a duck and swims like a duck, you sort of assume it is a duck. Given the Duchy of Cornwall looks and behaves like a corporation, with income from complex investments, and quacks like a corporation, with its council including the great and good from banking, on the face of it, many of my constituents would say that the Duchy should pay corporation tax and capital gains tax. Are my constituents being reasonable?

15 July 2013 Duchy of Cornwall and HM Treasury

William Nye: The Duchy is a very unusual organisation. It is a private estate; it is not a corporation. It is a private estate in many respects like other private estates, but in one or two respects not like a private estate. Some of the things that you have highlighted, Mr Smith, still do not make it a corporation. There is a council. It is an advisory council that advises the Duke of Cornwall. As I said a while ago, essentially it is a set of properties that belong to the Duke of Cornwall. The fact that it is a large set of properties and is worth a lot of money does not, per se, make it a corporation. The memorandum of understanding establishes that it is not a corporation and not subject to corporation tax.

Q75 Nick Smith: You did not really answer the question about what you would think if you were one of my constituents in Blaenau Gwent in south Wales. Do you think it is reasonable?

William Nye: I do not think I should put myself into the position of your constituents. I am sure you can represent them, Mr Smith.

Q76 Nick Smith: I try my best. Okay, to return to the first question from the Chair, the Duchy of Cornwall is not subject to tax and the Prince of Wales is not legally liable, as far as I know—he pays it out of choice—to pay tax on his income from the Duchy. How can there justifiably not be any legal requirement on either to pay tax?

William Nye: As the memorandum of understanding on royal taxation sets out, the income from the Duchy of Cornwall and Duchy income that relates to the Crown is technically—I say technically—exempt from tax. For the past 20 years, the Queen and the Prince of Wales have chosen to pay tax. You will probably recall that it was quite a big thing 20 years ago when the change was made. They do not choose how much tax to pay; they choose to pay tax in the normal way. After that, tax is calculated in the normal way on their income. The Prince of Wales pays income tax on his income from the Duchy of Cornwall and any other income that he has.

Q77 Nick Smith: As any payment of income tax by the Prince of Wales is voluntary, as we have agreed, how does that exempt the Duchy from corporation tax requirements? Other similar organisations and people have to pay these corporation taxes, don't they?

William Nye: The starting point, as I said, is that it is technically exempt, as set out in the memorandum of understanding. As we have discussed with other members of the Committee, it is not a corporation so is not subject to corporation tax. The income is a single flow of income on which the Prince of Wales pays income tax.

Q78 Chair: Could I just go back to this? You keep saying that it is not a corporation, but it has all the features of a corporation. When I asked you all those questions about whether there was a chief executive and did they pay PAYE and so on, you said yes, yes, yes. It has all the features of a corporation. How can you then say that it is not a corporation? I genuinely do not understand it. I want to understand it better.

William Nye: It is an office administering an estate on behalf of the Duke of Cornwall. Naturally, people are employed, such as Mr Willis, by the Duke of Cornwall to administer his estate.

Q79 Chair: But why is not a corporation?

William Nye: I am not a tax expert. We have dealings with—

Q80 Chair: It has all the features. I gave two examples of the Information Commissioner. I understand that you are challenging that. That found you as a legal entity and therefore liable to all these conditions, which would make you liable to corporation tax.

William Nye: No, if I may say, that was quite a narrow point. The finding in the first-tier information tribunal was about the application of the environmental information regulations, which in turn is European law about, as it says, environmental information.

Q81 Chair: Yes, but the point is that you had to be established as a legal entity to allow that to be applied. That is correct, isn't it?

William Nye: Their view was that it was a public authority. We do not accept that view. Even if they had established—

Q82 Chair: But the courts did. You didn't; the courts did.

William Nye: Correct.

Q83 Chair: Right, thank you.

William Nye: That particular court, yes.

Q84 Nick Smith: I wanted to come back to the corporation issue. If you are running a big, corporate institution in this country, you surround yourself with people who know their way around banking and industry and running large corporations. Could you just give us a few examples of the people who are on the Prince's Council that manage the duchy, so that we can get an understanding of their backgrounds?

William Nye: Yes, they are listed in the accounts, which you have, and they are a mixture of people from a mixture of backgrounds. There are some people who are expert in, as you say, banking and finance. There are some who are farmers. Some people are, as it were, representatives of Cornish interests. Some have expertise in commercial property and also in environmental matters. Most people have some business or farming background.

Q85 Nick Smith: I am pretty sure that Mr Rothschild has banking experience.

William Nye: I think you are absolutely right, Mr Smith.

Q86 Nick Smith: I have one more question for you and then a question for Ms Diggle. Do you receive any grants that are only available to the corporation?

William Nye: I do not believe that we do.

Q87 Chair: European subsidies?

William Nye: Do you mean agricultural subsidies?

Chair: Yes.

William Nye: Mr Willis may correct me if I have got this wrong, but I do not believe that the Duchy manages anything in hand, and it therefore does not receive any single farm payment. The Prince of Wales owns one farm—Duchy home farm—which is run like every other farm and is eligible for the same level of European agricultural support as every other farm in the country.

Q88 Mr Bacon: Is that owned by the Duchy?

William Nye: It is owned by the Duke of Cornwall.

Q89 Mr Bacon: But he pays rent for it.

William Nye: Yes, he pays rent.

Q90 Nick Smith: Paula Diggle, what is the principle behind subjecting the Duchy of Cornwall to the Crown exemption from paying tax?

Paula Diggle: Simply that the monarch and the Prince cannot be in business in their own right and cannot build up income during their lifetime for their support. They need state support in order to carry out their business of leading the country, so it would be crazy to tax them on their other income. That was the principle. Of course, it was modified to the extent of the voluntary payment of tax in 1993.

Q91 Nick Smith: Why is the exemption from tax considered appropriate to the Duchy's commercial activities when other enterprises carrying out the same range of commercial activities are liable for tax?

Paula Diggle: Because, in effect, as Mr Nye has just explained, the Duchy's commercial enterprises are part of the Duke's own work establishment.

Q92 Nick Smith: But everybody else pays tax.

Paula Diggle: Well, Crown exemption applies. That is the point.

Q93 Mr Bacon: I should have declared at the outset that one of the members of the council, the Lord Warden of the Stannaries, Sir Nicholas Bacon—no relation that I am aware of—is a constituent of mine and is known to me personally.

Presumably, there is no other commercial entity that is in the business of providing an income to the heir to the throne. Is that right?

Paula Diggle: No. Well, not that I know of.

Q94 Mr Bacon: Not to this throne, anyway. Presumably, if Parliament wished to change the law on this—there have been Acts of Parliament relating to the management of the Duchy—it could do so.

Paula Diggle: It could.

Q95 Mr Bacon: But so far it has not.

Paula Diggle: Correct.

Mr Bacon: Thank you.

Q96 Austin Mitchell: The annual review, which you kindly sent us, says that the Prince of Wales pays income tax voluntarily on the surplus of the Duchy of Cornwall, applying normal income tax rules at the 50% rate, but it does not give a figure for how much

tax he pays. The figure—£4.426 million—includes VAT, so what is the actual figure for income tax?

William Nye: You are right that it does include a small element of VAT, and I am afraid that it is not clear to me why it has always been the case that the Prince of Wales, since he started declaring how much tax he paid, has always presented it in this way. The Prince of Wales, although a very distinguished public figure, is still a private individual, so there is a limit to how far I can go in discussing his private tax affairs, but I can tell you that the vast majority of that amount is income tax.

Q97 Chair: That is a really important point, because the assertion is that he pays income tax at the 45% level. He does not, because it includes the VAT component.

William Nye: No, I am sorry if it was not clear. He does pay income tax—50% in the last year and 45% this year. He has a large income and therefore pays at the higher rate. It so happens that for the last seven or eight years the household of the Prince of Wales and the Duchess of Cornwall has produced this annual review, in which he has voluntarily produced information about his personal expenditure and his personal tax affairs, and we have included a figure for tax, which is income tax plus VAT.

Q98 Chair: And what is the VAT for?

William Nye: VAT on things purchased by the household of the Prince of Wales and the Duchess of Cornwall. As I say, the vast majority of that—

Q99 Chair: Why is that shown separately? We all pay VAT. We pay VAT every day of the week; all of us do.

William Nye: Yes, indeed. And I am very sorry to say, Madam Chairman, that I cannot really tell you why it is shown in this way. It has been for a number of years, since my predecessor established this review. What I can tell you is that the vast majority of the figure is, in fact, his income tax payment.

Q100 Chair: You cannot give us the percentage?

William Nye: I think I might have to ask the Prince of Wales whether he was content for me to give you that figure. Those are his private tax affairs.

Q101 Chair: One of our issues is transparency. He claims to pay income tax; it would be very helpful to have that as a separate figure, so that one can understand better what tax he is paying on income, and what VAT he is paying, just like the rest of us do.

William Nye: The VAT is, of course, just like the rest of us, and the income tax is also just like the rest of us.

Chair: That does not quite tot up. We will come back to it.

Q102 Austin Mitchell: In the interests of openness, it should be published, because on the figures that are published, it looks as though Prince Charles's effective direct tax, plus indirect tax, is 24% of his income for 2012 and 23.6% for 2013. The bottom quartile of households pay 38% of their income as direct and indirect taxes, and for the top quartile it is

15 July 2013 Duchy of Cornwall and HM Treasury

33.7%. In the interests of openness, those figures should be published, but let me move on to Nick Smith's question about—

William Nye: May I make an observation, Mr Mitchell? The Prince of Wales paid last year at 50%, and this year at 45%. He pays income tax on his income after relevant business expenses. That is what is laid out in the memorandum of understanding, which was produced by the Government just this year. It has been that way since the Prince of Wales and the Queen first started paying income tax 20 years ago. His official expenditure, which he chooses to use his private income to meet, is the equivalent of business expenses for somebody who has a business. His business, if you like, is being the Prince of Wales, doing official duties on behalf of the Queen. Those costs are before tax, and then he pays income tax at 50% on the amount after those official expenses. If you take the income before the official expenses and divide it by the tax, you will get the figures you were giving, but that does not give the whole story.

Q103 Austin Mitchell: Okay. Thank you. To get back to Nick Smith's point that if something looks like a duck and quacks like a duck, it possibly is a duck, the Duchy is a legal person. It can enter into contracts. It buys and sells assets. It employs people. It has trademarks and indeed brands—Duchy Originals—and it has an auditor. It has an audit committee and it has what I think you described as a quasi-chief executive, or somebody who is quite like a chief executive. You are really dodging around, aren't you, because for tax purposes it is not a corporation, but for every other purpose it is a corporation? Would it not be better if it was just taxed as a corporation, instead of being some kind of mediaeval anomaly that happens to have moved into the business era that we are now in?

William Nye: It is true that it is mediaeval, in the sense that it was founded in 1337, but I think it has moved into the 21st century. It is not a corporation, and I do not think it is a corporation in the ways, with respect, Mr Mitchell, that you suggested. The Duke of Cornwall owns an estate. It is a large estate and it has a lot of property in it, but he has not set it up as a company. He has not set it up as a corporation or, to be more accurate, Parliament has not set it up as a company or a corporation. It is a private estate and it is run as a private estate. Unlike all the other bodies that come before you, it is not a public body. It is run as a private estate and the Duke of Cornwall enters into contracts. He is the registered owner of the assets. Also, if I may correct, with apologies, one small point, it does not own the brand Duchy Originals. That is entirely separate.

Q104 Austin Mitchell: Is it?

William Nye: It is, yes.

Q105 Austin Mitchell: Because I was going to ask Paula Diggle how I would feel about Duchy Originals not paying tax if I were a manufacturer of marmalade that was superior in taste and quality.

William Nye: May I answer that first? Duchy Originals is not part of the Duchy of Cornwall. There

are three things it has in common. It has the Prince of Wales in common; it has the word "Duchy" in it; and it does use the Duchy badge. The Prince of Wales established Duchy Originals as an entirely separate social enterprise. He has licensed the Duchy badge and the name to be used by Duchy Originals Ltd. Duchy Originals Ltd is a social enterprise. It creates profits from commercial operations, which go to the Prince of Wales's Charitable Foundation.

Q106 Austin Mitchell: The profits don't pay tax.

William Nye: The profits come from a licensing arrangement with Waitrose. Waitrose obviously pays tax. Duchy Originals pays tax. The income goes to the Prince of Wales's Charitable Foundation, which then distributes it to charities; but it is entirely separate from the Duchy of Cornwall, and that is why it does not feature in the Duchy accounts.¹

Q107 Austin Mitchell: Just one point: the Prince of Wales's business activities are wholly commendable—they are very conscientious and environmentally supportive, so all praise in that direction. However, what was a mediaeval entity—a land, a barony, or whatever you call it—has been transformed into a business, and this, from the point of view of value for money for the taxpayer, does give the Prince of Wales more discretion on income and spending than if he was allocated it on a civil list basis, as with the monarchy, because if the profits of the Duchy increase in this kind of fashion, so does his ability to buy more houses—more Highgroves, or whatever—to do more things and to employ more people. It is a mediaeval anomaly, which, because of a business imperative that has transformed it, is really not giving the public the information they need on royal expenditure, nor the ability to check that we are getting value for money.

William Nye: I am sorry if you feel we do not provide the right information to the public. The Duchy produces accounts every year, as it is required to do. It produces 60 pages of accounts; I am told that the accounts are now about twice as long as when the Committee last looked at them. The Prince of Wales also chooses to produce an annual review, which you referred to, Mr Mitchell, outlining what he chooses to do with his money. You are quite right that he does have some freedom. He has the freedom to use his private income as he would like, and he chooses to use his private income to pay for his official duties, and the official duties of the Duchess of Cornwall and the Duke and Duchess of Cambridge, and Prince Harry, which enables them to do all the things they do on behalf of the Queen. He does not have to do that, but he chooses to do so.

Q108 Austin Mitchell: But it would be better if that was paid for by a civil list allocation, in the way the Queen's duties are, so that we have full accountability—full openness—rather than being at

¹ Note by witness: Duchy Originals Ltd pays Employers' National Insurance, but all profits are passed to the Prince of Wales's Charitable Foundation or other Charities, and therefore corporation tax is applicable.

the discretion of the Prince of Wales, subject to his own desires and instincts.

William Nye: Mr Mitchell, you appear to be suggesting that the Prince of Wales should get more money from the taxpayer, and I do not think I should comment on that. That really is a matter of Government policy.

Q109 Chair: The Duchy of Cornwall is owned by whom?

William Nye: It is owned by the Duke of Cornwall.

Q110 Chair: But it goes to the Crown. It is publicly owned.

William Nye: No, it is not publicly owned, Madam Chairman. It belongs to the Duke of Cornwall.

Q111 Austin Mitchell: The point is that he is deciding his own spending, rather than it being decided publicly by a public authority.

William Nye: It is true, Mr Mitchell, that, in the arrangements we have, the heir to the throne receives an income from his private estate; and he chooses to use it on public duties. It would be possible, of course, for Parliament to legislate that that expenditure should be paid for by the taxpayer, instead of being from this private income. It would strike me as a slightly surprising thing for Parliament to choose to legislate for, to be perfectly honest, but Parliament could choose to do that. That would of course leave the Prince of Wales with all his private income to spend on other things.

Q112 Chair: If it is owned by the Duke of Cornwall, he could not leave it to the Battersea Dogs & Cats home, could he?

William Nye: No, he cannot; you are quite right.

Chair: So it's got a very different sort of constitutional position.

Q113 Mr Bacon: That was the entire point, when it was set up in 1337. Forgive me, because I may have missed something. Was not the original purpose of the monarch, Edward III, in setting this up to provide an income for the heir to the throne that was separate from him as monarch?

William Nye: Yes, it was.

Q114 Mr Bacon: So I haven't missed something. That was the original purpose—so that he should have more autonomy and be independent of the monarch. That should not come as a surprise.

William Nye: No.

Mr Bacon: That was the plan.

William Nye: That has been the plan since 1337.

Q115 Mr Bacon: So whether things should change is a separate question, but that was the plan.

William Nye: Yes, it was the plan.

Q116 Mr Bacon: Because he is autonomous and appears to have a greater degree of independence than would have been the case had he been on the civil list, which I thought we had got rid of and replaced with the Sovereign Grant Act—

William Nye: You have.

Q117 Mr Bacon: I am right about that too. So there is no civil list any more.

William Nye: No.

Q118 Mr Bacon: But the fact that he is independent of all that is by design. That is the intention.

William Nye: That was part of the original plan, yes.

Q119 Mr Bacon: Can I check something with the CAG, who I am pleased to say is the first chartered accountant to occupy his office? I think there has been a CAG going back to the 1300s, but you are the first qualified chartered accountant to hold the office. I know that you have a lot of private sector experience working with companies and corporations. The word "corporation" has been mentioned many times, and I know that you have dealt with many corporations in your career.

Amyas Morse: I am a bit nervous about what you are leading up to.

Mr Bacon: I know you are not a lawyer, but I am hoping, none the less, that you may be able to help me. Am I right in thinking that whether something is a corporation depends on whether you have gone down to Companies House and registered it as a company, and that it is a matter of law, rather than anything else?

Amyas Morse: It is not quite as simple as that, if you will forgive me for saying so. There are number of characteristics to a body corporate, which are tests at law that have been established over a long period—case law. It would be far better talking to a lawyer—since we have a resident lawyer on the Committee, I'll just haul him in to this as well. There have been various bodies that have said they were not corporations for various reasons and have won or lost those cases. It is certainly true that if you go and register at Companies House as a corporation, you are one, but it is not necessarily true that if you have not registered, you are definitely not one.

Mr Bacon: So it is possible—

Amyas Morse: There are other tests of being a body corporate.

Q120 Fiona Mactaggart: There are not many things that have stayed the same since 1332.

Chair: 1337.

Fiona Mactaggart: I do not think five years out in that many centuries is too problematic, Madam Chair.

Mr Bacon: It depends which five years. If it is the wrong five years, you might get your head chopped off, so it could be very important.

Fiona Mactaggart: The law relating to the Duchy has changed in a number of ways in that time. When the Committee last looked at the matter, one of the things that it was exercised about was greater clarity about the role of the Treasury in the accounts of the Duchy. I have to say, Ms Diggle, that I was a little disconcerted by your description of how you approve things under the 1982 Act—you ask people whether it is good value for money, and so on. I would like to know that there is a proper process, because it is very clear, as I understand it, that on transactions over

15 July 2013 Duchy of Cornwall and HM Treasury

£200,000 or £500,000, the Duchy has to seek approval from the Treasury. It seems to me that as that is set out in the Act, there has to be some kind of formal process that is followed through. I wish you could tell us what that is.

Paula Diggle: Perhaps I can try and set out the whole process for you. The Treasury, first of all, takes a general overview of the Duchy's strategy. Mr Willis and I meet quite frequently to talk about the general overview. I do not object if the general strategy seems commercial. If I saw some problem with the commerciality of the strategy, I would have a problem with it, because it would then be a question of wondering whether the property was not being used efficiently enough. As you said, the large transactions come to me for approval. We always go over them, in some depth, as to exactly what is going on. I always want to know, "Is it a market price?" Sometimes I want to check whether it is a market price, as I was saying earlier. Sometimes I want to check whether a market rent is to be charged.

Q121 Chair: Who do you check it with?

Paula Diggle: I usually ask the Duchy to find independent evidence if that is necessary.

Q122 Chair: You don't independently check?

Paula Diggle: I don't, because I think it is for the Duchy to prove to me that what they are doing is adequate for the purpose.

Q123 Stephen Barclay: How many times have you not given approval?

Paula Diggle: It isn't usually a question of that, Mr Barclay. What actually happens is that we talk about any particular project, and only when we both agree that it is in a suitable form to be approved do I put it forward to the Lords Commissioners to sign into a warrant, which then allows the transaction to take place.

Q124 Stephen Barclay: But there have been no transactions that you have objected to?

Paula Diggle: There have been several transactions on which we have had considerable dialogue before approval.

Q125 Chair: Will you answer the question? You have had dialogue, but have you turned any down?

Paula Diggle: We have a dialogue about whether something has an arm's length price: "Can you prove to us that it is an arm's length price?"

Q126 Chair: Have you stopped them doing a sale because you thought it wasn't commercial?

Paula Diggle: No, I haven't. It is usually the acquisitions or the developments that are more—

Q127 Chair: Have you stopped them doing an acquisition?

Paula Diggle: No, but we have talked about the terms.

Q128 Mr Bacon: I was going to ask exactly that as a supplementary. Have you ended up seeing a transaction done on different terms from those initially

proposed by the Duchy, by Mr Willis, because of discussions and inquiries that you have had with Mr Willis?

Paula Diggle: Certainly.

Q129 Fiona Mactaggart: The Act says, "It shall be the duty of the proper officer of the Duchy"—which I assume is probably Mr Willis—"to attach to the accounts particulars of any authorisation" given by the Treasury. I cannot find those, and I have looked. We have seen some £12 million-worth of disposals, and I can see no authorisation anywhere here. Why?

Keith Willis: What we call section 11 warrants for sales and purchases do not get published in the accounts that you are looking at here; section 7 warrants do get published.²

Q130 Chair: Explain that to us. We do not understand.

Keith Willis: A section 11 Treasury warrant is a warrant that the Treasury will give to the Duchy for any purchase, sale or improvement to property over the £500,000 that you mentioned before. That is very much the normal warrant for which the Duchy goes to the Treasury to try to achieve. In any one year, there may be perhaps 15 warrants—I am guessing—that the Treasury will have given to the Duchy on that basis.

Q131 Fiona Mactaggart: And a section 7 warrant?

Keith Willis: A section 7 is much, much more unusual. A section 7 warrant is where there is something unusual that may, for some reason, not be at market value, or it may not immediately give a commercial return. That is very unusual, and in any one year there may be one, if any, of those. In the year you are looking at here, there are two of those published in the accounts.

Q132 Fiona Mactaggart: Where do I find them?

Keith Willis: Page 56.

Q133 Mr Jackson: Mr Nye, you will forgive us, but having interviewed the BBC last week, we are a little sensitive to feudal, mediaeval power and plunder of the public purse. I want to ask you a question so that we may understand the differentiation you make on whether the Duchy is a corporation. It seems to me that the Duchy is sui generis—it is something different from anything that exists in the UK, apart from the Duchy of Lancaster—but would you say that it is analogous to, say, a housing association on a very big scale?

A housing association does not usually issue shares, it is a big social enterprise and it engages in commercial activities such as renting out property. A housing association owns the assets, usually homes, but it has a social provision enshrined in primary legislation. It has a chief executive and a chairman who pay tax. In those respects, the Duchy is sort of similar

² Note by witness: The proper officers are The Lord Warden of the Stannaries, Sir Nicholas Bacon, Receiver General, James Leigh-Permberton, The Attorney-General, Jonathan Crow QC, and The Secretary and Keeper of the Records, Alastair Martin.

legalistically to a housing association. I am trying to understand. It is not my view that the Duchy is a corporation, but I am trying to understand what you see it as, if it is not a corporation.

William Nye: Thank you, Mr Jackson. Let me think about that.

May I agree with your first point? I definitely agree that the Duchy is *sui generis* and not exactly like anything else. The thing that it is closest to is the other Royal private estate, the Duchy of Lancaster. Even then, the Duchy of Cornwall is not identical to the Duchy of Lancaster because the rules that apply to the Duchy of Lancaster are slightly different.

I had not previously thought of the analogy you made with a housing association. I know that you are expert on housing and planning matters and housing associations, and I am definitely not an expert on those, so I am slightly reluctant to say, "Oh yes, it is like a housing association", because you know a lot more about them than I do. I have said to people in the past, when trying to explain the Duchy of Cornwall, that it is a bit like a trust in some respects, although it is not formally, legally speaking, a trust. It is a little bit like a family business in some respects, but it is not solely a business. It is an estate, which has a sort of entail in it, although it is a slightly complex entail. It has aspects of social enterprise, in that although it is commercial, it is able to take a long-term stewardship view of what is in the interests of the Duchy overall, meaning the assets for the Duke and future dukes, and of the communities and the tenants. To that extent, it has aspects of social enterprise. I will go that far with your analogy, but probably no further.

Q134 Mr Jackson: So it has an implied positive social good, which may offset some of the questions about liability for tax.

William Nye: Without necessarily buying the second premise in your question, I would certainly hope that the Duchy has some social good. The Duke of Cornwall wants to manage the Duchy of Cornwall not only to generate an income for himself and to increase the value of the assets for his son and for future Dukes of Cornwall, but for the long-term good of the tenants, the communities and the environment.

One of the great advantages of the Duchy of Cornwall and how it is structured is that it can do long-term investments, which I believe are for the benefit of the people in those local communities and the environment. Those members of the Committee who were able to come to Poundbury last week were hopefully able to see in the urban area, rather than the rural area, how that operates. In the rural area, it is much the same. The Duchy is able to, and the Duke of Cornwall himself—the Prince of Wales—is passionately committed to, invest for the long term and look at projects that have a 20, 25, 30 or 35-year return.

Q135 Mr Jackson: And you can confirm to the Committee that you gave us examples of developments at Poundbury that were the subject of quite protracted debate and discussion between you and the Treasury.

William Nye: I am sure that one or two of the buildings—perhaps more than one or two of the buildings—that you saw at Poundbury were ones that Mr Willis and Ms Diggle will have discussed at some length before reaching a mutual understanding of why they were to the long-term benefit of the Duchy and the community.

Q136 Mr Jackson: So the Treasury is in no sense a rubber stamp for anything that you present before it.

William Nye: I really do not think so.

Paula Diggle: I have a long history of controlling public spending and other things in the Treasury. I do not think that any of my counterparts have ever regarded me as a pushover. I think that you had better ask Mr Willis what he finds.

Q137 Chair: I have to say that we have great respect for you, Paula, but I am not sure that the Treasury has got the most fantastic reputation on controlling public expenditure, from this Committee's perspective.

I was going to come in on a couple of things. Stewart talked about the BBC, but the BBC tried to claim Crown immunity from paying taxation some years back on the basis that it was incorporated by a royal charter and that it carries out public service. That claim was not accepted. Paula, just explain to me what is the difference between the two.

Paula Diggle: A royal charter is normally given to a private sector entity doing worthwhile public duties and goods and is recognised as such. It does not confer any special tax status. For example, we have chartered institutes for civil engineers and for accountants.

Q138 Chair: So the BBC has to pay tax.

Paula Diggle: My understanding is that all these chartered institutes and, for that matter, all the universities that are chartered are liable to tax.

Q139 Chair: What is the difference between that and the Duchy of Cornwall?

Paula Diggle: It is not chartered. It is established under a charter, but it is not a royal charter in the same way that the BBC has one.

Q140 Chair: Can you explain the difference to me?

Paula Diggle: I am not an expert on this field, I am afraid.

Q141 Chair: It is established under a charter, so it seems to me that it is chartered.

William Nye: Sorry, but I do not know anything about the BBC or its tax affairs, Madam Chairman, so I cannot make a comparison. The charter establishing the Duchy of Cornwall is a charter of Edward III, so it was issued by the king. We do not assert that corporation tax should not be paid because there is a royal charter. That is not the case we are making.

Q142 Chair: May I ask about *bona vacantia*? When people in Cornwall die intestate, does what they leave go to the Duchy or to the Duke?

William Nye: It goes to the Duke of Cornwall.

15 July 2013 Duchy of Cornwall and HM Treasury

Q143 Chair: Does it go to him personally, to the Duchy, or what? Your assertion is that they are one and the same, except they are not one and the same if it's a woman, so I am getting very muddled.

William Nye: The Duchy of Cornwall is the Duke of Cornwall's estate. By law—I am happy to explain this because it is slightly odd, and not just the name—if you die in Cornwall and do not leave a will, and you do not have any heirs left who can be identified, the money that is left behind goes, through an ancient property right, to the Duke of Cornwall. For 40 years, I think, the Duke of Cornwall—

Q144 Chair: What happens if there is not a male Duke of Cornwall?

William Nye: It then goes to the Sovereign as Duke of Cornwall.

Q145 Chair: So it goes only to men?

William Nye: Well, no, because the sovereign is, at present, a woman. The present Duke of Cornwall—a man—has concluded that he does not want to benefit from this income, and has therefore arranged to give it all away to charity, and that is what he does.

Q146 Chair: Okay. He hangs on to quite a bit; there is a lot in the budget, because presumably he expects it to be challenged by relatives who come along, even if someone dies intestate, to try to get the money.

William Nye: If there is a relative, there is no question of challenge.

Q147 Chair: There is more than £3 million in the pot, isn't there?

William Nye: If there was a relative, we would give the money straight away. What happens is that we search for possible beneficiaries. There is some legal cost associated with the administration of all these estates—here I am using estate in the sense of the estate of a dead person, not a landed estate. As you know, winding up any estate involves some costs, but net of those costs, and holding a margin in case a beneficiary appears, the money is all given to a charity, which distributes the money to good causes. The Duke of Cornwall does not retain any of it.

Q148 Chair: But the charity is the Duke's own—what is it called?

William Nye: The charity is called the Duke of Cornwall's Benevolent Fund.

Stephen Barclay: It is on page 11.

Q149 Chair: May I ask some questions about some of the donations given by the Duke of Cornwall's Benevolent Fund? It gave a donation to promote the Isles of Scilly, where the Duke of Cornwall owns a number of properties for holiday lets.

Meg Hillier: He owns the freehold of the Isles of Scilly.

Chair: Is it appropriate that this money should be used for a charity to promote the Isles of Scilly, which he owns?

William Nye: I must say, that is a different angle from what I expected, Madam Chairman. I have been questioned sometimes as to whether it is not right that

the income from the Duke of Cornwall's Benevolent Fund does not all go to Cornwall. If the Duke of Cornwall spends charitable money in Cornwall, where he has a lot of estates, if there is some conflict there, I am afraid that that is unavoidable. He gives some money to help the communities in which he has property. I think you are actually referring to money that was given from the Duchy accounts to the Isles of Scilly.

Q150 Chair: I think it is in the report and accounts—that is where I picked it up.

William Nye: Yes, exactly.

Q151 Chair: A grant went to the Isles of Scilly to promote them as a holiday destination and he owns the freehold—I had not quite picked that up, but I certainly picked up that he has huge interests and properties there—so he will benefit from the charitable donation to promote the Isles of Scilly as a holiday destination.

William Nye: A couple of points, if I may. First, he does own the freeholds of a large proportion of the Isles of Scilly, but not all of the Isles of Scilly. Secondly, the Isles of Scilly are delightful and lovely, and I am quite happy to promote them as a holiday destination as well, but none the less they are a rather economically precarious part of the Kingdom. They are a long way away from the nearest part of the mainland, and they are entirely dependent on tourism and very specialised agriculture. They have a number of small islands with very small populations, and tourism needs promotion in the area.

Q152 Chair: It seems to me an oddity that this charity that is set up to dispense the monies that come from people who die without a will should be used to support the promotion of an island in which he has a strong financial interest—or you do, he does, it does—you know.

William Nye: If I may say, I think the amount of money you are referring to, which is in the accounts, is not actually given by the Duke of Cornwall's Benevolent Fund; it was money given directly by the Duchy estate.

Keith Willis: It was money donated by the Duchy of Cornwall.

William Nye: It was not from the Duke of Cornwall's Benevolent Fund.

Q153 Chair: Same thing.

Keith Willis: No. From the Duchy of Cornwall is his own money. It is not the charity.

William Nye: If I may say, I really think it would be quite odd and I think you would be quite critical if the Duke of Cornwall said, "I'm never going to plough any money back into Cornwall. I'm never going to help the Isles of Scilly. I'll be criticised, because I've got an interest there." Would that not be odd?

Q154 Chair: I think it is odd to use charitable donations, like I think it is odd to—

William Nye: As we have just—

Q155 Chair: It was in that paragraph on the bona vacantia. Have I pronounced that right?

William Nye: Yes

Keith Willis: Yes

Q156 Chair: Sort of.

The other thing is, he used some of that money to give money to Gordonstoun. Is that right?

William Nye: I am not certain about that. I will have to send you a note, I am afraid.

Q157 Chair: It has been around quite a long time. Do you know, Mr Willis?

Keith Willis: The benevolent fund?

Q158 Chair: Yes.

Keith Willis: Yes, it did. It donated money, or, basically, sponsored two students, I think.

Q159 Meg Hillier: I should say, Chair, that a Hackney school regularly sends students to Gordonstoun, who seek sponsored places.

William Nye: Could we send you a note on that one, Chair, because I think that may have been some time in the past?

Keith Willis: We are going back. Not in the current year, but yes.

William Nye: Would it help if I said the sort of thing that the Duke of Cornwall's Benevolent Fund does spend money on? It is things like the Duchy College, Dorchester festival, the Great Western Air Ambulance, St Buryan church, the War Memorials Trust, St Enodoc church appeal, the Devon County Agricultural Association, the Royal Cornwall Agricultural Association and various other charitable causes.

Q160 Chair: Okay. Well, the list I had included Scilly Isles and Gordonstoun, though we will have a look at that.

William Nye: Well, Gordonstoun we will send you a note on.

Q161 Chair: Can I ask two other questions, then I will go to Fiona, who wants to come back in?

Again, in this odd set of arrangements, which I cannot get my head round, the Duke of Cornwall pays rent to himself for Highgrove. Why?

William Nye: Because it is an asset belonging to the Duchy of Cornwall and it is right that it should be a performing asset.

Q162 Chair: But he pays rent—it is the same person.

William Nye: The most important thing about the Duchy of Cornwall—although I have alluded to this, I think we have not touched on it in detail here—is the fact that it has a revenue account and a capital account. The whole reason for the Treasury's involvement and, indeed, for the production of these accounts is to protect the capital account; hence Parliament's interest, in a sense. So when the Duchy of Cornwall bought an estate—Highgrove—in 1980, it was deemed at that time appropriate—

Q163 Chair: Why did it buy the estate?

William Nye: I was not serving with the Duchy of Cornwall in 1980, but I think it—

Q164 Chair: The Duke of Cornwall was already using that estate as one of his homes.

William Nye: No, he was not.

Q165 Chair: He was not. Okay.

William Nye: The Duchy of Cornwall bought the estate and rented it to the Prince of Wales. It is therefore a performing asset and makes a commercial return.

Q166 Chair: But they are one and the same. This is my difficulty with this; they are the same person.

William Nye: Yes, but in the Duchy of Cornwall there is a capital account and a revenue account, and we are obliged to look after both of them separately. He pays income, so that that is a performing capital asset.

Q167 Chair: Is there a tax advantage to doing this?

William Nye: I do not believe there is. No.

Q168 Chair: Presumably, he can offset the rent he pays, as an expense, against the income he gets.

William Nye: Well, a proportion of the rent. As the Memorandum of Understanding on Royal Taxation sets out, a proportion of the cost of the Prince of Wales's properties, in so far as they relate to official duties, is a deductible expense, but the proportion which is not is not.

Q169 Chair: Why does the Duchy buy timber from the Duke? Again, it is one and the same person.

William Nye: I may have to ask Mr Willis. I believe this was about 10 years ago.

Keith Willis: Yes. Well, that was certainly covered at the previous Committee. We are going back. It certainly has not happened again. That was where the Prince personally, with his own money, spent money on trees on Duchy land. There was then a wish for the Duchy to acquire the trees, to amalgamate the trees plus land, but it was a complex and unusual transaction.

Q170 Chair: And it stopped.

Keith Willis: It was a one-off. Yes.

Q171 Chair: I have a few final questions. Last year, he got an income of some £19 million from the Duchy of Cornwall. He said that, of that £19 million—help me with my figures, because I have forgotten them—a certain amount was to pay for carrying out his public function duties.

William Nye: A very large amount.

Q172 Chair: How much?

William Nye: On his own official duties and those of the Duchess of Cornwall, £9.8 million.

Q173 Chair: £9.8 million of the £19 million, so £10 million was left to pay tax on. Is that right?

William Nye: He also pays for the official duties of the Duke and Duchess of Cambridge and Prince Harry as well.

15 July 2013 Duchy of Cornwall and HM Treasury

Q174 Chair: Who decides that? Is that based on the memorandum?

William Nye: It is based on the memorandum.

Q175 Chair: Why can't that be in the open?

William Nye: Why can't what be in the open?

Q176 Chair: I will tell you what crosses my mind. The Prime Minister has to publish all the dinners he has in Chequers, many of which will be related to his position as Prime Minister. It seems to me that it would be healthy for our understanding and acceptance of this and for the reputation of the Prince of Wales—the Duke of Cornwall in this instance—if we had greater public understanding of how he has assessed his own expenses and what counts and what does not count and so on.

William Nye: This relates to the private tax affairs of the Prince of Wales. In general, the private tax affairs of individuals are not made public.

Q177 Chair: But he is carrying out public duties. That is the whole point.

William Nye: He chooses to use his private income for public duties. Her Majesty's Revenue and Customs has a very strong culture—I recall from dealing with them—of not discussing the tax affairs of private individuals.

Q178 Chair: You say, "He chooses," but he does not choose. The Duchy of Cornwall was established, as Richard said, to ensure that there was an income for the Duke of Cornwall to carry out his functions and duties. That is why it was established. It is not a choice. Let us at least get that agreed.

William Nye: He chooses how many official duties to do.

Q179 Chair: No. He will spend part of it on his own living expenses, and he will spend part of it on his public functions, but it is there to provide independence and income to enable him to carry out his public duties. It is not a choice.

William Nye: It is there to provide him with an income to do with as he sees fit. The present Prince of Wales chooses to use the great bulk of it on a wide range of official duties—

Q180 Chair: No, sorry, but it was established not for him to use it as he sees fit, but to enable him to carry out his functions as the Prince of Wales without recourse to other public funds.

William Nye: Yes, but the official duties of the Prince of Wales, like many other things, are things that have evolved. He has chosen, in the long period that he has been the heir to the throne, to undertake a lot of official duties on behalf of Her Majesty the Queen. It is not the case automatically that the income generated by the Duchy of Cornwall has always been spent on what we would now call official duties. Edward VII, when Prince of Wales and Duke of Cornwall, was allowed to undertake very few official duties, but still had the benefit of the income from the Duchy of Cornwall. What the official duties were in 1337 is a matter for speculation; they probably did not think of

it in quite those terms. The Prince of Wales himself does not have a list of things that he is obliged to do with a bill attached. He does a series of things on the behalf of the Queen and the country, and the cost of doing those things he chooses to pay for himself from his private income.

Q181 Chair: But from income that was established—

William Nye: For him to do with as he chooses.

Q182 Chair: All I want to know is: how does anybody oversee what he charges?

William Nye: There are rules that are set out in broad principles in the Memorandum of Understanding on Royal Taxation.

Q183 Chair: Why can't he be more transparent about that? Because he chooses not to be.

William Nye: I believe he is very transparent. This is about him paying his tax bill. My finance department—the Prince of Wales's finance department—fills in a tax return with HMRC. I think it is fair to say that HMRC looks at it rather carefully and ensures that it is content with the amount of tax that the Prince of Wales is paying and that the deductions for business expenses—in this case, the costs of official duties—are appropriate and in line with the Memorandum of Understanding on Royal Taxation. As a result, he pays income tax. I have indicated a broad figure to you, which is the vast majority of the £4.4 million that he chooses to publish. He could, like every other private individual in the country, not publish his income tax bill at all, but he chooses to publish it.

Q184 Chair: We have established one thing this afternoon. He is not like any other private individual. That is the whole thesis on which the current settlement is based. It is a bit daft to say, "like any other private individual". He is not like any other private individual.

William Nye: No, but even the Prince of Wales should benefit from some of the privacy of private individuals.

Q185 Chair: Well, it depends. The greatest benefit is that he has this peculiar taxation status on corporation tax, capital gains tax and income tax. There is a bit of choice in there for him around income tax. All I am saying is that given his status, I think it would help public confidence if he was more transparent about it all.

William Nye: Well, he pays income tax. It is agreed with HM Revenue and Customs. He then gives a figure for the cost of his official duties and the tax amount that he pays as a result.

Q186 Fiona Mactaggart: Thank you for drawing my attention to the Treasury consents. There are two of them. One is to fund £1 million towards the restoration and conversion of Lostwithiel Red Brick Range, which I assume is the Lostwithiel traditional palace of the Duke of Cornwall, but the other one I am more interested in, which is the authority to fund

compensation for improvements undertaken by tenants under residential leases of up to half a million pounds per case. Most tenants can't afford half a million pounds, so I am thinking these must be rather particular tenants. I was wondering whether you could tell us who the tenants are.

Keith Willis: First of all, on the Lostwithiel one, that is a separate building from the one you referred to. The £500,000 is really in relation to compensation the Duchy will pay to tenants. For example, where a tenant—we are going back in time—constructed his house on Duchy land many years ago, that property may now be worth, quite frankly, in excess of £500,000. The tenant wants to move, vacate, whatever, then the Duchy may negotiate a payment between the Duchy and the tenant to buy the tenant's interest out, so the £500,000, generally, will be a complete residence if we ever get to that stage. It would be very unusual at £500,000.

Q187 Fiona Mactaggart: Exactly. That is why I was wondering whether you could tell us something specific about it. It is quite clear that the Treasury thought, "Hmmm", a little, which is why it has been specifically authorised in this way. I was wondering whether you could tell us, if there are approvals of this kind, have they been used and who by?

Keith Willis: The unusual aspect of this was that it was a catch-all. It was not one specific transaction. I was looking for a blanket warrant to cover any circumstance where the Duchy wished to compensate a tenant, so that made it unusual. It was not specific to one transaction. I was looking for a blanket warrant. Hence, the Treasury said that would be section 7. Generally, the compensation payments we are talking about would be £20,000 or £25,000, something like that, for small improvements that a tenant may have made to a Duchy-owned building.

Q188 Mr Bacon: But if you wanted to buy a whole house in a wealthy area it would be the whole-house price. Is that what you are saying?

Keith Willis: Yes, so the figure of £500,000 was meant to cover almost every instance that the Duchy would be paying compensation for.

Q189 Fiona Mactaggart: So, in effect, the Treasury have given you a free ride to pay compensation at whatever level you negotiate if someone has improved a property on land which is owned by—I am still slightly confused how someone could do this. If they are a tenant and they have done this, didn't they need permission from you in the first place?

Keith Willis: The Duchy may have a property that the tenant wants to improve. The tenant in the past has improved that property. The tenant leaves. The Duchy, as any normal landlord, would compensate the tenant for his expenditure, which he had carried out.

Q190 Fiona Mactaggart: And you can do that for half a million pounds and it is only in relation to those kinds of properties?

Keith Willis: Yes. I stress, half a million—

Q191 Fiona Mactaggart: It is not for anyone who is currently a tenant of a property owned by the Duchy?

Keith Willis: That is correct. It is numerous small transactions to date under £50,000.

Q192 Fiona Mactaggart: So nothing of the level of half a million, which is the maximum, has been approved?

Keith Willis: No.

Meg Hillier: Chair, I need to make a declaration of interest. I have been advised by the Clerk that I am a trustee of the War Memorials Trust, which I have now learned is funded—I did not realise this, in the many things I see coming through to me—by the Duchy. I have also occasionally bought flowers from the Isles of Scilly.

Chair: Thanks, Meg.

Q193 Nick Smith: A question for Mr Nye. Which home or homes are considered to be the Prince of Wales's principal homes, and has he paid tax on those homes personally?

William Nye: The principal residences of the Prince of Wales are Clarence House in London, Highgrove in Gloucestershire and Birkhall in Aberdeenshire. Clarence House is part of St James's palace, and is part of the occupied royal palaces. Highgrove belongs to the Duke of Cornwall's estate, and, as we have discussed, he pays rent for it. He also does the same for the house in Wales, Llwynywermod.

Q194 Nick Smith: What does he do in Wales?

William Nye: The Duchy Estate owns a house, which he uses from time to time for a number of weekends or longer periods a year—Llwynywermod in Carmarthenshire. I am sorry if I have not pronounced that quite right. He also has a house in Scotland, which he rents from Her Majesty the Queen.

Q195 Nick Smith: I was trying to tally those as you were going along. Is it five?

William Nye: I think I have mentioned four properties.

Q196 Nick Smith: Okay. And Clarence House is his principal?

William Nye: Clarence House is his principal residence in London.

Q197 Nick Smith: How would you class the other homes?

William Nye: He spends quite a lot of time in each of Clarence House, Highgrove and Birkhall, and he makes small, occasional visits to Llwynywermod.

Q198 Nick Smith: Has he personally paid any taxes around any of those?

William Nye: Which taxes did you have in mind, Mr Smith?

Q199 Nick Smith: Council tax, stamp duty. What happens to inheritance tax in future years? The range of things that the rest of us pay.

William Nye: I stand to be corrected—I will certainly send you a note if I have got any of this wrong, Mr Smith—but I believe that he does pay council tax on

15 July 2013 Duchy of Cornwall and HM Treasury

the private properties. Clarence House is part of the occupied royal palaces. I am afraid that comes under the Keeper of the Privy Purse at Buckingham Palace. I do not know enough about how taxes apply there. On the two properties that are relevant for the inquiry today, Highgrove and Llwynywermod, stamp duty was paid—at least I am sure it would have been paid—when the properties were purchased, and council tax is paid. Inheritance tax is somewhat complicated in the case of the Crown. The properties of the Duchy of Cornwall are not liable to inheritance tax. The inheritance tax arrangements for the properties of the Duchy of Cornwall are complex because of the way the Duke of Cornwall goes. If the Prince of Wales were to die tomorrow, his son would not inherit the Duchy of Cornwall. The Queen would inherit the Duchy of Cornwall. It is part of Crown transactions and is therefore immune from inheritance tax.

Q200 Chair: And then she can pass it on, can't she?

William Nye: I can't speculate on what Her Majesty might choose to do with it.

Q201 Chair: Given the constitutional settlement, what is likely to happen?

William Nye: In the circumstances we have outlined, the Duchy would be the property of Her Majesty the Queen because she would not have an eldest son and heir.

Q202 Chair: So she would be the Duchess of Cornwall?

William Nye: She would be the Duke of Cornwall.

Chair: Outrageous!

Mr Bacon: Why is it outrageous? She is the Duke of Normandy and the Duke of Lancaster. Why can't she be Duke of Cornwall sometimes as well?

William Nye: It is a bit like her being a Chairman, I suppose.

Chair: I don't call myself a Chairman, but go on.

William Nye: So inheritance tax does not apply to Duchy of Cornwall properties.

Q203 Nick Smith: A question for Ms Diggle. Why hasn't the Comptroller and Auditor General been appointed to examine independently the way the Duchy is managed?

Paula Diggle: Because the Duchy of Cornwall is a private estate, and the CAG audits public money.

Q204 Nick Smith: But he also audits the sovereign grant.

Paula Diggle: That is public money too. The sovereign grant is paid through the Treasury estimate; therefore it is public money.

Q205 Nick Smith: Mr Nye, is the Duchy willing to grant the Comptroller and Auditor General access to the books and records underlying your accounts today?

William Nye: I don't think we think it would be appropriate, for the reason that Mrs Diggle gave. The Comptroller and Auditor General and the National Audit Office, for which I have the highest regard and

have dealt with many times in my professional career, are specialised at looking at Government Departments, non-departmental public bodies and public money. The Duchy of Cornwall is a private estate, and I do not think it would be appropriate for the NAO to provide the audit. There is, of course, an external auditor, appointed as required by the accounts direction, and we are very satisfied with the external auditor that we have.

Q206 Austin Mitchell: I was saddened to hear that you did not list an official residence in Yorkshire. There doesn't seem to be any property in Yorkshire, either. Is that correct?

William Nye: I will have to ask Mr Willis whether there is anything in Yorkshire. The Duchy has traditionally been focused in the south-west, although not exclusively in the south-west. We tend to have less in the north of England.

Keith Willis: I'm afraid that, to my knowledge, we have nothing in Yorkshire.

Q207 Austin Mitchell: That's very sad for you.

William Nye: I believe that the Duchy of Lancaster, despite the name, does have property in Yorkshire.

Q208 Austin Mitchell: I have an interesting question that came in belatedly from Graham Smith of Republic. He says that Prince Charles became a member of J V Energen LLP, which from our discussion earlier is a very good one, in May 2011, but the Duchy also owns 50% of the members' capital of QMS (Poundbury) LLP. I thought that when the Labour Government passed these limited liability partnerships they were a way of allowing auditors to escape the full liability for inefficient audits and that they removed the threat to their yachts and houses in Switzerland. Why is the Duchy making use of these LLPs? The letter goes on to state that Republic is concerned that Prince Charles is using LLPs in such a way as to extend the Duchy's immunity from taxation to businesses carrying out activities not traditionally carried out by the Duchy. How do you answer that?

William Nye: I really don't think we are doing that. You cite two examples, Mr Mitchell. The first is the anaerobic digestion facility, which we touched on before. That is a joint venture on Duchy land, and it is about providing renewable energy to the people of Dorset. It is also a commercial enterprise, and it is new to the Duchy in the sense that it is the first anaerobic digester that the Duchy has developed, but the Duchy is interested—and the Prince of Wales is personally extremely interested—in renewable energy. Secondly, the other investment is a joint venture in a part of Poundbury. Is it part of Queen Mother Square?

Keith Willis: Yes, it is QMS, which is one building in Poundbury in which the Duchy has a 50% stake with another developer.

William Nye: So it's a property development, which is absolutely core to what the Duchy of the Cornwall does.

Q209 Austin Mitchell: So is this going to be an increasing feature, or are those just two-offs?

William Nye: Not necessarily. It is a two-off, if you like. The Duchy has a range of types of investment. In Poundbury, on the whole, it has not directly developed properties itself—mostly other developers are brought in—but in this case it was a joint venture and there is a range of possible ways of developing Poundbury.

Q210 Chair: I have a few questions left that we have not covered. First, the Duchy has performed very well in the past decade, for which those involved, whatever status they have, should clearly take some credit. You have done that at a time when land and property prices have collapsed, which is particularly interesting, and one of the ways you have achieved that is by increasing the income from agricultural rents. Is that right?

William Nye: There have been some rent reviews on agricultural land.

Q211 Chair: It looked to me, from reading your report, that that was a quite significant element, particularly of last year's growth in income.

William Nye: There have certainly been some successful agricultural rent reviews.

Q212 Chair: Was it a large element of the growth in income in 2012–13?

Keith Willis: No, it was not. On the income side—

William Nye: It has been quite significant on the asset side.

Keith Willis: On the income side, year-on-year, it increased by £250,000.

Q213 Chair: Agriculture: what percentage is that? It is £250,000 from what last year?

Keith Willis: It was a 4% increase.

Q214 Chair: Okay. On page 40 in your accounts, you talk about income from sale of goods of just under £3 million. What are you selling?

Keith Willis: Yes, that did show a fairly dramatic increase year on year. We have two aspects there. We have the Duchy garden nursery, but more important in the year we are looking at was the anaerobic digester side of things.

Chair: So that is the energy sales that have gone in.

Keith Willis: Yes. They came to £1.5 million.

Q215 Chair: On one page—I think it is page 56—you put your income from shares and cash. Paul, can you tell me which page it was on?

Paul Keane: I think you are looking at note 5 on page 42.

Chair: Page 42. Your income from investments, bank interest and other interest was £4.2 million. Is that correct?

Keith Willis: That is correct.

Q216 Chair: And just underneath it, you put loan interest. Are you offsetting that against the income you get?

Keith Willis: I beg your pardon?

Chair: Just underneath note 5, which is the income that you get from shares and cash, is note 6, which covers the cost of loan interest. You are not offsetting

that £3.182 million against the £4.225 million, are you?

Keith Willis: No, there is no offsetting. Those are two figures within our accounts shown separately.

Q217 Chair: And on the £4.225 million, does that count towards his personal income, on which he would pay tax?

Keith Willis: Yes, it does.

Chair: It does count in the same way, as he would pay tax in the same way as everyone else does. Okay, I think that that is my lot.

Q218 Mr Bacon: Just a couple more from me. On the income from agricultural land, you said that the rental income went up by 4%. That is correct, is it not?

Keith Willis: If my quick calculation is correct, yes.

Q219 Mr Bacon: I know from my own area of Norfolk that the value of agricultural land has shot up. When I first became an MP, it was £1,500 to £1,800 an acre. It is now up to £10,000 an acre or more, depending on where the land is. Does that mean that you have seen the yield on your holdings of agricultural land fall, if the income has not gone up as much?

Keith Willis: Absolutely. Agricultural yields have fallen dramatically, which is not surprising when the land price is at a record high.

Q220 Mr Bacon: So in order to maintain an income, as it were, you need to have other sources, whether it is the anaerobic digester or whatever it is. You need to diversify into other things.

Keith Willis: On a pure income-yield basis, yes. Obviously the income is income.

Q221 Chair: So are you selling agricultural land?

Keith Willis: We very occasionally sell the odd piece of agricultural land.

Q222 Chair: There were two farms last year, weren't there?

Keith Willis: That is correct.

Q223 Chair: Are you able to share the capital gain you made on those with us?

Keith Willis: I think the gain that we disclosed within our accounts was about £4 million.

Chair: The gain was £4 million.

Keith Willis: The gain on valuation, yes.

Q224 Chair: On which no tax was paid.

Keith Willis: Capital gains tax, no, as we have discussed.

Q225 Mr Bacon: The thing that interests me—it particularly interested me when I visited Poundbury last week along with other members of the Committee—was that you cannot wander around Poundbury and look at it without being impressed by the very high quality of the built environment. It really is very impressive indeed, yet it is all commercial.

15 July 2013 Duchy of Cornwall and HM Treasury

Not only is it all commercial, but the Treasury is watching over you. To quote from the brief in relation to the legislation, the Treasury has “a responsibility to make sure that actions taken by any Duke when managing the Duchy cannot compromise the long-term value of the estate”. So you have a duty to be commercial, as it were, and yet you are still able, while maintaining that duty to be commercial and while producing impressive commercial results, to achieve much better outcomes in the built environment than would appear to be delivered by most other holders of property, such as developers, whether it is Persimmon, Taylor Wimpey, Bovis or whoever. How do you square that circle? Plainly the quality is very high, and it begs the question why others are not doing the same.

Keith Willis: The most obvious answer from the Duchy’s perspective is the long-term view that it can take. Poundbury has been in existence for 20 years, and it will probably be going for another 15 years, or something like that.

Q226 Mr Bacon: You mean in terms of building.

Keith Willis: In terms of building. Indeed, when I go to the Treasury, one of the discussions we often have is about the Duchy wanting to look at the long term—invest now, although we may not see the end product for another 10 years or something like that. That is the main thing: we do not require the short-term gain that most public companies would need for their shareholders.

William Nye: Perhaps I could add that, as well as being what the Duchy is able to do, it is also the personal approach of the Duke of Cornwall—the Prince of Wales. He believes in investing for the long term and he believes that investing in high quality over the long term will be good to look at, as you saw, good for people to live in, and produce a better commercial return over time. Certainly as regards Poundbury, that seems to have been successful.

Q227 Mr Bacon: Presumably, there is a slight halo effect. If people see the higher quality, does that attract a higher premium and increase the value of the neighbouring land that might be developed next, because people can see that they are next to something that is more valuable than had hitherto been the case before something was built?

Keith Willis: I am sure that is the case.

Q228 Mr Bacon: I have one question for the Treasury. You are looking over their shoulder making sure they do not do anything that damages the long-term value of the estate, but are you content with the extremely long-term approach, notwithstanding your need to ensure a commercial return? Does that bother you?

Paula Diggle: As I said, we look at whether the Duchy has a commercial approach that will safeguard the capital value of the estate for the benefit of the present and future dukes. This is one way of doing it and we do not second-guess the strategy. You are right; there is a halo effect.

Q229 Mr Bacon: What interests me, I suppose, is that if it is possible to do that and get high quality and a halo effect and so on, why would other commercial property developers not act in a similar way? Presumably, the reason is that they do not have the ability to take the same long-term view.

Paula Diggle: It must be something like that, but I cannot help you there.

Q230 Mr Bacon: Has the Treasury thought about creating structures and incentives that might make them take the same long-term view, so that we have more development of the same high quality that we see at Poundbury?

Paula Diggle: Not to my knowledge.

Q231 Mr Bacon: Is it thinking of looking at that?

Paula Diggle: Not to my knowledge.

Q232 Mr Jackson: I hope you have enjoyed your performance before the people’s soviet of the Public Accounts Committee. Seriously, I was very impressed, like Mr Bacon, with the visit to Poundbury. Mr Willis, what was the indicative sum that Dorset county council indicated in terms of the economic contribution of Poundbury to the local economy? What are the last figures you had?

Keith Willis: I think the last figures I had were something like £250 million.

Q233 Chair: Annual?

Keith Willis: Cumulative.

Q234 Mr Jackson: If it was annual, we would definitely have been made aware. That was the economic impact assessment. Did it date from 2010 or 2012?

Keith Willis: I am not sure, but it was around 2010 or 2009.

Q235 Mr Jackson: Can I ask about the plans for Newquay? I understand that a similar project is at an early stage for Newquay on the north Cornwall coast. Do you envisage it being Poundbury 2? What lessons have you learned since 1993 and the development of Poundbury that will inform the way Newquay is developed, or will it be a completely separate Duchy project?

Keith Willis: I think it is fair to say that many lessons have been learned from Poundbury which will follow on to Newquay—indeed, some of the developers at Poundbury will follow on to Newquay. They know how to build to the Poundbury-type code and so on. Having said that, it is based in Cornwall, not Dorchester, so there will be differences to suit the local environment.

Q236 Mr Jackson: And it will be an urban extension to the town of Newquay?

Keith Willis: Yes, it will.

Q237 Mr Jackson: It will not be a separate settlement?

Keith Willis: No; as with Poundbury, it will be an extension.

Q238 Nick Smith: As a proud member of the Public Accounts Committee soviet, I went to Poundbury last week, and I would like to acknowledge that it is a very worthwhile development. And you know what? Bags of youngsters in my constituency have benefitted from the Prince's Trust; it has made a tremendous difference to some people's lives. You have got to say these important things.

I want to move on to the relationship with Waitrose. As we have heard, in 2011 you spent more than £38 million to purchase a supermarket distribution centre, which is leased to Waitrose. There is a Waitrose, which we saw, at Poundbury, and I understand that you also have a planned Waitrose development at a park and ride close to Truro. How are all these deals linked, if they are?

William Nye: They are not really linked at all. The purchase of the distribution warehouse was a large commercial purchase—with Mrs Diggle clearly having looked into it—from a third party. Waitrose is the tenant and therefore provides the rent. It is a good tenant, or a good covenant, as they say, but the transaction to purchase the warehouse did not involve Waitrose at all. Indeed, I suspect that we bought it without talking to Waitrose or them knowing anything about it.

In Poundbury, as you saw, there is a little Waitrose. That is the supermarket that has chosen to set up in Queen Mother square. I think they also have a larger supermarket elsewhere in Dorchester.

Thirdly, as you said, on the edge of Truro, Cornwall council have asked the Duchy to provide some land to make available a park-and-ride scheme, a food hall for Cornish food products, and a supermarket. We have done some planning to make that available for Cornwall council. There again, it happens that the supermarket that has been found and is contemplating being the anchor tenant is Waitrose. But those things are not connected.

Q239 Nick Smith: Okay. One of the things that we have tried to talk through today is this business of a level playing field for other organisations with business arrangements comparable to the Duchy. Do you do any deals or work or are you in partnership with any other supermarket, as well as Waitrose?

Keith Willis: Not recently. In the past, we have dealt with Tesco, for example, at Dorchester. We are having discussions with some of the other retailers about Newquay.

Q240 Chair: Can I just get one final thing clear in my mind? When there is no Duke—

Mr Bacon: No, no, no!

Chair: No—the Duchy is managed by the Crown, but it does not belong to the Crown or to the monarch. Is that right or wrong? The Sovereign does not become the Duke; they act as a caretaker. Is that wrong?

William Nye: I am not sure that I would characterise it in that way. It reverts to the Crown in the same way that other royal titles revert to the Crown.

Q241 Chair: But does the Sovereign become the Duke?

William Nye: My understanding, although this is rather recondite detail on constitutional and royal titles—

Q242 Chair: The separation and separate identity are interesting.

William Nye: My understanding is that the Sovereign would be Duke of Cornwall, in the same way that the present Sovereign—

Q243 Chair: Well that is not my understanding from the Library, which is why I am asking you the question. I understand from the Library that if there is no Duke, although the Duchy is managed by the Crown, it does not belong to the Crown or to the monarch. The Sovereign does not become the Duke, but acts as the caretaker. I want to bottom this out because it is quite relevant to the point about separation and a separate identity. Is that right or wrong information?

William Nye: I do not think it is correct to say that the Sovereign is caretaker. The Royal Duchy of Cornwall reverts to the Crown when there is no separate Duke.

Q244 Chair: Does the Sovereign become the Duke?

William Nye: I believe that he does, or she does.

Chair: Can you check that?

Q245 Mr Bacon: Can I just check something? For the avoidance of doubt, it is correct, is it not, that Her Majesty the Queen is the Duke of Lancaster?

William Nye: I believe that that is correct.

Q246 Mr Bacon: And it is correct, is it not, that the monarch, ever since 1066 and up to the present Queen, is Duke of Normandy?

William Nye: I'm not sure about that, but it is certainly a sort of understanding in the Channel Islands.

Q247 Mr Bacon: When you are in Jersey, they talk about "the Queen, our Duke," don't they? And they are not referring to her as Duke of Lancaster.

William Nye: When you are in the Channel Islands, they certainly refer to the Queen as the Duke of Normandy, yes.

Q248 Mr Bacon: Okay, so it is not a constitutional impossibility for her to be a duke.

William Nye: By no means.

Mr Bacon: Thank you.

Q249 Chair: All I want you to do is write to me and tell me whether or not the information I have is correct.

William Nye: I would be very happy to do so.

Q250 Mr Bacon: Can I just check one other thing? If it looks like a private ducal estate set up to provide an income to the heir to the throne, and it quacks like a private ducal estate set up to provide an income to the heir to the throne, can one assume that it might just possibly be a private ducal estate set up to provide an income to the heir to the throne?

15 July 2013 Duchy of Cornwall and HM Treasury

William Nye: I think that that must be possible, Mr Bacon.
Mr Bacon: Thank you.
Chair: Let us find out. Thank you very much indeed.

Written evidence

Written evidence from Republic

ABOUT REPUBLIC

1. Republic is a membership-based pressure group calling for an elected head of state and an end to any political role—or state funding—for the royal family. We propose keeping our current parliamentary system but replacing the monarch with a directly elected, largely ceremonial head of state. Our campaign is supported by over 29,000 republicans from across the political spectrum, including 15 Members of Parliament.

REPUBLIC AND THE DUCHY OF CORNWALL

2. The notion that the law should apply equally to all citizens is a key republican principle which has driven our interest in challenging tax exemptions and reliefs enjoyed by members of the royal household and the Duchies.

3. Our research made the connection between the issue of the Duchy's tax status and findings of the Information Rights Tribunal which contradicted the Duchy's previous claims of exemption. This research was the basis of renewed media interest in the issue in December 2012.

4. Republic has long campaigned on issues relating to the Duchy of Cornwall, building up considerable knowledge and expertise in this area. In December 2012 we reported the Duchy to the avoidance unit at HM Revenue and Customs tax-avoidance and wrote to the chair of the PAC, asking her to investigate its tax status.

5. Republic's view—supported by the evidence below—is quite simple: the Duchy is a legal entity in its own right, separate from the person of the Duke, which operates as a commercial enterprise. There is no good moral or legal reason why the Duchy of Cornwall should not pay Corporation Tax in the same way as any other commercial body generating profits from property and other investments.

6. Republic would welcome the opportunity to support our written submission by giving oral evidence to the Committee. To arrange this, please contact: *[contact details redacted]*

INTRODUCTION

7. It is not for us to prove that the Duchy of Cornwall should pay Corporation Tax in the ordinary way, rather it is for the Duchy of Cornwall to provide a clear and convincing explanation of why it is not paying tax in the normal way which it has so far failed to do.

8. A number of different and inconsistent arguments have been put forward over the years as to why the Duchy of Cornwall and/or the Duke of Cornwall should not pay tax in the normal way. These excuses include:

- The Duchy is not a body or other legal person.
- The Duchy is not a company and therefore need not pay Corporation Tax.
- The Duchy of Cornwall has Crown Immunity from Taxation.
- The Duke of Cornwall has a “peculiar title” to the Duchy and therefore the Duchy need not pay Corporation Tax.
- It would be unfair for the Duchy to pay Corporation Tax as it would mean that the same income was taxed twice.

9. This document explains why none of these claims should be accepted as a valid reason for not paying Corporation Tax. In truth, there is no good moral or legal reason why the Duchy of Cornwall should not pay Corporation Tax in the same way as any other corporate body generating profits from property and other investments.

The Duchy is wrong to claim it is not a legal person or to suggest it does not exist separately from the Duke of Cornwall

10. The Duchy's 2012 financial statements state that it is “not subject to Corporation Tax as it is not a separate legal entity for tax purposes”. There is substantial evidence that the Duchy's claim not to be a body or other legal person existing separately from Prince Charles is incorrect:

- (a) “If there is a living male son of the Monarch who is also heir apparent then the Duchy is managed by the Duke. When there is no Duke then the Duchy is managed by the Crown, but it does not belong to the Crown or to the Monarch.” (source: EA 2010/0182 para 33)
- (b) The Duchy's 1997 financial statements (which were audited and presented to Parliament) state that “The Duchy of Cornwall is a body created by charter in 1337”. (source: EA 2010/0182 para 33)
- (c) “There have been transactions between the Duchy and Duke, for example the Duke pays rent to the Duchy for his occupancy of Highgrove House and the Duchy has purchased quantities of timber from the Duke.” (source: EA 2010/0182 para 43)

- (d) The Duchy's Staff Handbook headed "Duchy of Cornwall" refers to "employment by the Duchy". (source: EA 2010/0182 para 44)
- (e) Contracts with employees are entered into with the Duchy. (source: EA 2010/0182 para 44)
- (f) The Duchy is notified as the Data Controller under the Data Protection Act 1998. (source: EA 2010/0182 para 44)
- (g) The Information Rights Tribunal was "given to understand that the Duchy contracts in its own name and has sued and been sued in its name ...". (source: EA 2010/0182 para 45)
- (h) The Duchy holds bank accounts in its own name. (source: EA 2010/0182 para 48)
- (i) Walter Ross described himself to the Information Rights Tribunal as "in effect, the Chief Executive Officer". The Tribunal found that "From the evidence before us he can only be the CEO of the Duchy." (source: EA 2010/0182 para 51)
- (j) The Health and Safety Executive (HSE) issued an improvement notice against the Duchy of Cornwall under Section 21 of the Health and Safety at Work etc. Act 1974. The notice was not challenged either by the Duchy or by the Duke. If the Duchy was not a legal person in its own right the HSE would have had no power to issue the notice against it.
- (k) The Environmental Agency has granted more than fifteen environmental permits to the Duchy of Cornwall, which could only have been granted to a legal person. (source: Environment Agency public registers)

The Duchy's evidence has been found by a Tribunal to be confusing and unclear

11. When considering the Duchy's claim that it was not a body, the Information Rights Tribunal judgement included the following comments in relation to the Duchy's only witness, Walter Ross (the Secretary and Keeper of the Records of the Duchy):

- "we found Mr Ross's evidence at times confusing and unclear" (source: EA 2010/0182 para 43)
- "In any case in evidence Mr Ross was unclear as to the way the revenue and capital accounts held by the Duchy operated." (source: EA 2010/0182 para 48)

The Information Rights Tribunal has ruled that the Duchy exists separately from the Duke of Cornwall

12. "... whatever the basis of the Duchy under the 1337 Charter, we find that the Duchy is now a body or other legal person. Taking into account all the above evidence and other statutory provisions, the practices of the Duchy and the way it has presented itself to the world including Parliament, the differentiation of the Duchy and Duke in commercial and tax matters as well as under legislation and the contractual behaviour of the Duchy, we are led to the conclusion that the Duchy is a body or other person ..." (source: EA 2010/0182 para 57)

The Duchy is wrong to claim that it is not a company and therefore need not pay Corporation Tax

13. The Duchy website states that:

"Only companies pay Corporation Tax;" (Source: Tax page on Duchy of Cornwall website)
This claim is linked to the claim that the Duchy is not a body which is considered in paragraphs 10–12 above.

14. All companies based in the UK are within the scope of Corporation Tax. In addition, some other types of bodies are also subject to Corporation Tax eg some members' clubs, associations, societies, Community Amateur Sports Clubs, and other unincorporated organisations. (source: Clubs page and Who is liable for Corporation Tax page, HMRC website.)

The Duchy's attempt to compare itself to other large organisations is misleading

15. The Duchy website states that:

"many other large organisations which are not companies pay income tax" (source: Tax page on Duchy of Cornwall website)

16. It has been shown in paragraphs 10–12 above that the Duchy is a body in its own right and therefore it is subject to Corporation Tax. It is unclear which "other large organisations" the Duchy would like to be compared to.

Comparison to the position of a partnership

17. "The Duchy is not subject to Corporation Tax ... (in the same way as, for example, a partnership is not a separate legal entity for tax purposes)" (source: page 5, Duchy of Cornwall 2012 Annual Report)

18. It is true that partners in partnerships (as defined by the Partnerships Act 1890) are subject to Income Tax as oppose to the partnership paying Corporation Tax.

19. The Duchy of Cornwall is clearly not a partnership under the 1890 Act which defines “Partnership” as being “the relation which subsists between persons carrying on a business in common with a view of profit.”

20. It should also be noted that partners in partnerships have to pay Class 2 and Class 4 National Insurance Contributions and Capital Gains Tax on Partnership assets. Prince Charles does not pay Capital Gains Tax on Duchy assets. There is no suggestion that Prince Charles pays NICs on his income from the Duchy of Cornwall. (Source: National Insurance—the basics, HMRC website)

Comparison to the position of an LLP

21. Members of limited liability partnerships (as defined by the Limited Liability Partnerships Act 2000) are subject to income tax and the LLP itself is not subject to Corporation Tax.

22. The Duchy of Cornwall is clearly not an LLP because if it were it would have to be registered as such at Companies House. It should also be noted that just as with partners in a partnership, members of LLPs have to pay Class 2 and Class 4 National Insurance Contributions and Capital Gains Tax on assets of the LLP.

Comparison to the position of a trust

23. The Duchy of Cornwall is clearly not a trust because it is a separate legal person in its own right. Trusts are required to pay capital gains tax and trust income is subject to income tax. (sources: Introduction to trusts and Capital Gains Tax and Tax on different kinds of trust income, HMRC website). If the Duchy believes it should be taxed as a trust then logically it ought to pay Income Tax and Capital Gains Tax which it does not.

The Duchy of Cornwall does not have Crown Immunity from Taxation

The Origin of the Duchy’s claim to Crown Immunity

24. The Duchy paid taxes including property tax, land tax and “other taxes” from 1842, this makes the Duchy’s claim in 1913 that it enjoyed Crown Immunity from taxation all the more surprising. (Source: The Duchy of Cornwall and the Crown, John Kirkhope)

25. The 1913 claim appears to be based on a single Legal Opinion from the Government’s Law Officers:

“We are of the opinion that the same principles which render the provisions of an Act of Parliament inapplicable to the Crown unless the Crown is expressly named, apply also to the Prince of Wales in his capacity as the Duke of Cornwall. This result arises from the peculiar title of the Prince of Wales to the Duchy of Cornwall” (source: Law Officers’ opinion, August 1913)

26. This opinion is now almost 100 years old and has not been updated to take account of a large number of legislative changes that have occurred in the intervening years including the introduction of Corporation Tax which was introduced in the Finance Act 1965.

Crown Immunity does not even extend to all public bodies

27. HMRC’s own guidance states that Crown Immunity does not even extend to all public bodies:

28. “However Non-Departmental Public Bodies (NDPBs), variously called Non-Government Organisations (NGOs) or quangoes are not Government Departments (the clue is in the name!) and do not (with a very few exceptions) enjoy Crown exemption.” (source: HMRC Tax Manual)

29. If Crown Immunity from Taxation does not apply to public bodies then the Duchy of Cornwall which claims to be a “private estate” cannot reasonably claim that Crown Immunity from Taxation extends to the Duchy.

30. The BBC claimed Crown Immunity from taxation and lost despite the fact it was incorporate by Royal Charter and despite the fact it carries out public services: (source: BBC v Johns (HM Inspector of Taxes) [1964] EWCA Civ 2 (05 March 1964), published by BAILII and Judgmental)

There is no case law to suggest that the Duchy enjoys Crown Immunity

31. The only case which the academic John Kirkhope was able to discover in which the question of whether the Duchy enjoyed Crown Immunity was considered was a county court case *Hobbs v Weeks* (1950). (source: Kirkhope) Kirkhope’s view was that this case suggested that Crown Immunity only applies when the Duchy “is in the Crown” (ie when there is no Duke of Cornwall or the Duke of Cornwall is in his minority). (source: Kirkhope)

Advice from Government Lawyers is that Crown Immunity exists for the benefit of the Crown and not Prince Charles

32. “There is no question of personal immunity from legislation for any member of the Royal Family other than the Sovereign. This includes the Prince of Wales.” (para 101, Crown Application guidance, Office of the Parliamentary Counsel, August 2008)

33. The Office of the Parliamentary Counsel's guidance on Crown Immunity refers to Duchy of Cornwall land being covered by the Crown exemption, suggesting that a Statute will not apply to the land in question unless the Statute refers to Duchy land expressly or by necessary implication. There is however no suggestion at all that the Duchy of Cornwall or the Duke of Cornwall enjoy the Crown exemption. (source: Crown Application Pamphlet, March 2013, Office of the Parliamentary Counsel. March 2013)

34. It should be noted that the Government Law Officers Opinion from 1913 states that "Taxation is not exacted from land; it is exacted from subjects who are taxpayers." The Law Officers Opinion does not refer to the tax payable by corporate bodies because it pre-dated the existence of Corporation Tax which was introduced by the Finance Act 1965.

35. Even if it could be established that Crown Immunity applied to Duchy land this would not affect the tax position of the Duchy of Cornwall or the Duke of Cornwall. The Duchy's income is not just derived from the land it owns, in the year to 31 March 2012 the Duchy received £4.7m from investments including cash deposits, equity securities and private equity funds.

Government policy states that Crown bodies are expected to behave as if bound by regulations

36. Government policy is that departments and other Crown bodies "are not shielded from obligations placed upon others" and "Crown Immunity is being progressively reduced, as legislative opportunities arise. In the meantime Crown bodies "are expected to behave as if they were bound by regulations". (source: Answer to a written question in 1994 referencing the Citizens Charter Second Report 1994)

37. It would wholly inappropriate for the Duchy to claim to enjoy Crown Immunity and not to follow the relevant Government policy applicable to Crown bodies.

It is wrong to suggest that the Duke of Cornwall has a "peculiar title" to the Duchy and therefore the Duchy need not pay Corporation Tax

38. The phrase "peculiar title" is sometimes used in explaining the Duchy of Cornwall's special tax status. This is however just another way of attempting to extend Crown Immunity to the Duchy of Cornwall which has been shown to be flawed in paragraphs 24–37 above. In any case, the ownership of a body is not a relevant consideration when determining whether or not it is subject to Corporation Tax.

39. It should also be noted that officials have found themselves unable to explain what the peculiar title is. For example, a Treasury witness giving evidence in 1971 said: "What the peculiar title is, I am afraid I cannot say." (source: TheyWorkForYou Willie Hamilton MP in 1982 quoting Mr. Strudwick, Treasury witness giving evidence on 6 July 1971).

It is incorrect to suggest that it would be unfair for the Duchy to pay Corporation Tax as it would mean that the same income was taxed twice

40. The claim:

"As The Prince already pays income tax on the Duchy's surplus, the Duchy does not pay Corporation Tax. If the Duchy also paid Corporation Tax, The Prince would effectively be taxed twice on the same income." (Source: Tax page on Duchy of Cornwall website)

41. The normal tax position is that a company is taxed on its profits and each shareholder is taxed on the dividend income that he/she receives from the company. It is entirely fair for Prince Charles and the entities he owns to be taxed in the same way as other for other taxpayers and the entities they own. In any case, the fact that a taxpayer (individual or corporate) considers a particular tax to be unfair does not mean they are not liable to pay the tax in question.

CONCLUSION

42. There is no credible support for the Duchy's claim not to be subject to Corporation Tax and therefore the Duchy of Cornwall should pay Corporation Tax in the normal way.

RECOMMENDATIONS

43. The Committee should advise HMRC to collect Corporation Tax from the Duchy in the normal way. The Prince of Wales and the Duchy of Cornwall should be subject to the same tax rules as other private individuals and corporations respectively. The arrangement whereby the Prince pays income tax voluntarily and the Duchy's profits are exempt from Corporation Tax is morally and legally untenable.

44. The Chancellor of the Exchequer should publish a revised Memorandum of Understanding on Royal Taxation stating that neither the Duchy nor the Duke should rely on any claim of Crown Immunity in order to avoid paying tax in the normal way. This advice should apply to tax in respect of prior periods as well as future periods and should extend to any penalties or interest payable in relation to the administration of taxes.

45. The Government should publish its current policy with regards to Crown Immunity and in particular clarify whether it remains Government policy that Crown bodies “are expected to behave as if they were bound by regulations”.

46. If however despite the substantial evidence provided HMRC remains in any doubt as to whether the Duchy is subject to Corporation Tax then HMRC should ensure the question is put before a Tax Tribunal as it ought to with any questionable claim made by a taxpayer in order to avoid tax.

47. The State Aid Branch of the Department for Business, Innovation & Skills should investigate whether HMRC’s failure to collect Corporation Tax from the Duchy amounts to illegal state aid.

48. It is Republic’s view that ultimately the stewardship of the Duchy should be transferred to the Crown Estate or a separate board of fully accountable commissioners, with its net surplus passing directly to the Treasury for the benefit of all taxpayers.

Graham Smith
Chief executive

2 July 2013

Written evidence from the Principal Private Secretary to TRH The Prince of Wales and The Duchess of Cornwall

QUESTION 159

In the past 10 years The Duke of Cornwall’s Benevolent Fund has made one payment of £5,000 in 2012 to Gordonstoun School’s Scholarship Fund. This fund’s aim is to provide “all round” scholarships for children who would otherwise be unable to afford a Gordonstoun education. This particular payment was made in partial support of a child from Cornwall. The Benevolent Fund has a list which details the types of charities it supports and this includes charities with an educational remit.

QUESTION 199

An additional note was promised if the information was incorrect. I can confirm that the information provided was correct.

QUESTION 244

When considering the question whether, in the absence of a surviving son and heir to the reigning Monarch, the Sovereign would become Duke of Cornwall, it is important to keep separately in mind (i) the devolution of the title, and (ii) the inheritance of the possessions. The title “Duke of Cornwall” was created first in time, and the possessions were then conferred on the Duke shortly afterwards by the Charter of 1337. The provisions of the Charter are clear, in as much as when there is no surviving son and heir, the possessor of the Duchy estate is the Sovereign. In these circumstances all the rights of the son and heir in respect of the estate fall to the Sovereign—thus, for example, the Sovereign receives the revenue from the estate but is not entitled to the capital.

When the Sovereign is the possessor of the estate, the title of Duke falls into disuse. It has not been the custom of Sovereigns to describe themselves as Duke of Cornwall and therefore in some cases this is referred to as a vacancy although, as noted above, there is a clear possessor of the estate. It should be noted that the use of titles is a matter for the Royal prerogative. Titles associated with the Sovereign, such as Duke of Lancaster and Duke of Normandy, are customary rather than official.

This question arose in the context of a discussion as to whether “the Duchy” is a separate legal person. It may assist the Committee if we offer some short observations on that question. Whether or not the Sovereign is styled as Duke does not affect the answer to the question whether “the Duchy” is a separate legal person. If “the Duchy” was a separate legal person, then the possessions would be permanently vested in that separate legal person, and there would have been no need to make provision for the possessions to vest in the Sovereign. The fact that such express provision has been made suggests that “the Duchy” is not a separate legal person, and as a result the possessions must always vest in some natural person (ie the eldest son and heir or the Sovereign).

I do hope the above is useful, but please do not hesitate to contact me if I can help any further.

William Nye
The Principal Private Secretary

2 August 2013

Written evidence from The Duchy of Cornwall

ORIGINS

The Duchy of Cornwall estate was created in 1337 by Edward III for his son and heir, Prince Edward (later known as The Black Prince) who became the first Duke of Cornwall. The Duchy's primary function is to provide an income from its assets for the present and future Dukes of Cornwall.

For many centuries it was traditional for families with landed estates to settle the land and other assets in trust, so that each generation could live off the income but were unable to dispose of the assets. This was done to ensure that the estate, and the income which it provided, survived from generation to generation. The same principle was applied to the Duchy of Cornwall as a private estate. It is one of two broadly similar private Royal estates of this kind, the other being the Duchy of Lancaster, which belongs to Her Majesty The Queen in Her capacity as Sovereign.

THE ESTATE

The Duchy estate consists of around 53,100 hectares of land in 23 counties, mostly in the South West of England. The principal activity of the Duchy is the sustainable and commercial management of its land and properties, to generate income for The Duke, and future Dukes, and for the wider benefit of tenants, local communities and for the environment.

The agricultural estate consists of arable and livestock farms including some smallholdings. The Duchy estate also promotes high-quality residential and commercial building programmes where its land is designated for development by local authorities. Where possible it converts its redundant farm buildings to work places in order to encourage small businesses within the countryside.

Conservation is particularly important and the Duchy encourages its farming tenants to pursue practical conservation measures alongside commercial farming. The estate invests considerably in environmental projects, and The Duke has made the organic Duchy Home Farm at Highgrove an example for others to follow.

TITLE

The two titles, Prince of Wales and Duke of Cornwall, are held by the same individual but are nevertheless distinct. This is reflected nowadays in the two separate organisations of The Prince of Wales's Office and the Duchy of Cornwall office which work together to support the heir to the throne. The title Prince of Wales is the older of the two titles and is conferred as a personal creation by the Sovereign, unlike the title of Duke of Cornwall, which is hereditary and is either inherited at birth or on the accession of a new monarch to the throne, when his or her eldest son becomes Duke. The current Prince of Wales is the 24th Duke of Cornwall and the longest serving.

GOVERNANCE

Dukes of Cornwall have traditionally managed their own private estates. The current Duke is actively involved in running the Duchy and his philosophy is to improve the estate and pass it on to his son and to future Dukes in a stronger and better condition, than when he inherited it.

The Prince of Wales himself takes a long-term stewardship approach and has proved that environmental and agricultural best practices are compatible with a sound financial return. For example, The Prince has helped to increase the Duchy's capital value—to which he has no access -by 87% in the last ten years.

The Duchies of Lancaster and Cornwall (Accounts) Act 1838 give the Treasury responsibility to ensure that actions taken by any Duke when managing the Duchy cannot compromise the long-term value of the estate. This is different from the Treasury's role in managing the economy because the Duchy estate does not work with public money. The Duchy's annual accounts are laid before the House of Commons and the House of Lords so that Parliament can be satisfied that the Treasury is fulfilling its statutory responsibilities.

The "board" of the Duchy is The Prince's Council, which is chaired by HRH The Prince of Wales. It meets twice a year. The "chief executive" is The Secretary and Keeper of the Records. With the exception of the Secretary and Keeper of the Records, The Prince's Council is a non-executive body which provides advice to His Royal Highness with regard to the management of the Duchy.

The annual accounts are audited by independent external auditors. The position of auditor is a personal appointment. The accounts are not audited by the National Audit Office because it is a private estate and is not publicly funded. The auditor's report to the Duke can be read as part of each year's accounts.

The requirements for the management of the Duchy are set out within its Charters and various Acts of Parliament.

- The Secretary and Keeper of the Records, Alastair Martin.
- The Receiver General, James Leigh-Pemberton.
- The Lord Warden of the Stannaries, Sir Nicholas Bacon.

— The Attorney-General to His Royal Highness, Jonathan Crow QC.

In addition, individuals with expertise in various areas of business in which the Duchy operates, including agriculture, commercial property and estate management, are appointed to The Prince's Council to provide advice with regard to the management of the Duchy.

Underpinning the Council are Committees: the Executive Committee, the Finance and Audit Committee, the Rural Committee, the Commercial Property and Development Committee, and the Remuneration Committee.

EXPENDITURE

The Prince of Wales became the 24th Duke of Cornwall on The Queen's accession to the throne, in 1952. When he was 21, in 1969, he became entitled to the full income of the Duchy and took over its management. Under the 1337 charter, and as supplemented by subsequent legislation, The Prince of Wales is not entitled to the proceeds or profit on the sale of Duchy assets, and only receives the annual income which they generate, on which he voluntarily pays income tax.

Once the income has passed to HRH, the Duchy office has no further oversight and the money is private. However, unlike any other private individual, HRH does publish annual accounts which are made publicly available. From these it can be seen that HRH chooses to use a large proportion of the income from the Duchy estate to meet the cost of his public and charitable work. Revenue from the Duchy estate also funds the vast majority of the official activities of HRH The Duchess of Cornwall, TRH The Duke and Duchess of Cambridge and HRH Prince Harry.

DUCHY OFFICES AND STAFF

The headquarters of the Duchy estate is at 10 Buckingham Gate, London. The Rural Portfolio is managed in three geographical districts from offices on St. Mary's in the Isles of Scilly; in Liskeard, Cornwall; and in Newton St. Loe near Bath. There are satellite offices in Princetown on Dartmoor, at Dewesall near Hereford, and at Poundbury. The Duchy employs 103 people (full time equivalent). These include Chartered Surveyors, Chartered Building Surveyors, Accountants, a Forester, office support staff, a Harbour Master and quay workers, and the Nursery Manager and team.

FINANCIAL REVIEW

Over the last ten years, in line with The Prince of Wales's stated intention to pass the estate on to his successors in a better condition, both the Duchy capital and revenue have increased. The revenue surplus has risen from just under £10 million to £19 million. This has been achieved by disposing of poorer quality assets and investing in higher quality assets. The capital account has also performed strongly over the same period, growing from £408 million to £763 million as at March 2013. During this same period £85 million has been reinvested into estate improvements.

Table 1

FINANCIAL COMPARISON AS AT MARCH 2004 AND MARCH 2013

(since the last accounts examined by the Public Accounts Committee in February 2005)

<i>Category</i>	<i>2004</i>	<i>2013</i>
	<i>£million</i>	<i>£million</i>
Revenue surplus	11.90	19.00
Net assets	463.00	763.00
Value of properties	428.00	739.00
Value of financial investments	47.60	106.00
Borrowings	10.00	80.00
Rental income	16.60	24.70
Financial investment income	2.20	4.20
Interest payable	1.08	3.18
	<i>Hectares</i>	<i>Hectares</i>
Duchy land holdings	56,200	53,100

The principal land development over this time has been at Poundbury in Dorset. This development was planned in response to the local authority, West Dorset District Council (WDDC), concluding that more housing was needed in Dorchester. WDDC approached the Duchy to ask whether it would release land for development. The development commenced in 1993 and to date 900 houses have been built. The additional benefits to the local community include 35% affordable housing, spending by residents, construction work, employment in new businesses, and Section 106 payments of which the Duchy has paid over £3.7 million to WDDC. There are now 2,200 residents, with 1,600 people working in 140 businesses based at Poundbury.

Borrowings are currently around 10% of the net capital asset value. During the last 2 years low interest rates have enabled the Duchy to increase its borrowings and invest in high quality assets. At 31 March 2013, the

weighting in financial investments were higher than normal, so as to maintain liquidity for major future capital projects within the estate.

TAXATION

Notwithstanding that the Duchy is exempt from taxation, for the last twenty years both The Queen and The Prince of Wales have voluntarily paid tax at the normal rate on the incomes from the two Duchies, and prior to that The Prince of Wales made a contribution in lieu of tax for many years.

The Prince of Wales chooses to devote the majority of his income from the Duchy of Cornwall to meeting the costs of his public and charitable duties, as well as those of his immediate family. The remainder is used to meet his personal expenditure. He pays tax fully on any income not used to meet official expenses. The Prince of Wales pays income tax in the normal way at the appropriate marginal rates on the income generated from the Duchy; in 2012–13, this was at 50%. He paid £4.4 million of tax on his income from the Duchy of Cornwall (which includes an element of VAT).

Regardless of any tax exemptions, the Duchy is not a corporation and therefore would not be subject to corporation tax. His Royal Highness is not entitled to benefit from the capital gains realised by the Duchy, nor can they be distributed: by law, they must be reinvested for the benefit of the Crown and future Dukes of Cornwall. His Royal Highness is subject to CGT in the usual way on his own assets.

Perhaps uniquely, he chooses to publish a figure for his personal tax payment in his annual review: www.princeofwales.gov.uk/online/annualreview2013.

“... my abiding aim lies in trying to make sure that my stewardship of the Duchy will enable my son to take on something of which he can be proud. The happiest thought I have is that he will one day be working with the sons or grandsons of those tenants whom I have had the pleasure and privilege of knowing.”

HRH The Prince of Wales Duke of Cornwall, 1993

Further information is available in the annual accounts which are available at: http://www.duchyofcornwall.org/managementandfinances_finances_accounts.htm

Supplementary written evidence from Republic

I understand the deadline for evidence has passed and appreciate that the hearing on the Duchy of Cornwall is on Monday. However I am hoping you will be able to forward this additional material to Margaret Hodge and perhaps other PAC members. The information below raises two specific concerns relating to the tax position of the Duchy of Cornwall. These comments are in addition to Republic’s general evidence to the PAC dated 2nd July 2013.

I have copied this to Mrs Hodge’s own email address simply because of the short time frame before Monday’s hearing. I hope will be able to ensure these matters are brought to the PAC’s attention.

These two issues raise serious and pertinent issues relating to the question of the Duchy’s tax status.

1. A case concerning an LLP of which Prince Charles is a member raises questions about how all the prince’s tax obligations are being funnelled through the Duchy.
2. Questions have been raised about the legal definitions used to justify the Duchy’s case, definitions that were drafted by Farrer and Co, the prince’s own lawyers.

USE OF LIMITED LIABILITY PARTNERSHIPS (LLPs)

Prince Charles became a member of Jv Energen LLP in May 2011. The LLP is a joint venture in the business of attempting to generate electricity from biomethane for the national grid (<http://www.jvenergen.co.uk/>).

The 2012 accounts of the Duchy of Cornwall show that Prince Charles receives a 59% share of the profits from Jv Energen LLP but his share of the profits and gains are accounted for within the Duchy’s accounts meaning no National Insurance Contributions or Capital Gains Tax will be paid and Income Tax will be paid on a “voluntary” basis after deduction of whatever expenses Prince Charles considers to be his official expenses.

The 2012 accounts also show that the Duchy also owns 50% of the members’ capital of QMS (Poundbury) LLP whose principal activity during the year was the construction and retention of a retail and office building.

We are very concerned that Prince Charles is using LLPs in such a way as to extend the Duchy’s (supposed) immunity from taxation to businesses carrying out activities not traditionally carried out by the Duchy that are not even being carried out in the legal name of the Duchy. Business activities carried out in the name of the Duchy are subject to certain restrictions set out in the Duchy of Cornwall Management Acts 1863 to 1982 however these restrictions would not apply to an LLP even in cases where the Duchy controlled the LLP. It should also be noted no previous Dukes of Cornwall would have been able to use LLPs as they did not exist in the UK prior to the Limited Liability Partnerships Act 2000 and therefore Charles’s use of the LLP structure in conjunction with the Duchy is unprecedented.

In short the arrangement allows the prince to avoid tax under claimed Duchy exemptions while avoiding the limitations put upon the Duchy by the Act.

We note that Charles could have chosen to invest in the LLP in a personal capacity and paid tax just like everyone else but instead he chose instead to refer to his title of “Duke of Cornwall” in the paperwork sent to Companies House. We would argue that this amounts to Prince Charles using a feudal title to avoid tax.

CONFLICT OF INTEREST IN EDITING AN AUTHORITATIVE SOURCE OF ENGLISH LAW

It has come to our attention that an authoritative source of English law has been amended by a solicitor at the firm of lawyers used by Prince Charles in such a way as to lend support to the Duchy of Cornwall’s dubious claim not to be a body making it easier for the Duchy to continue to avoid paying Corporation Tax. As noted by Bruton’s representative before the Information Rights Tribunal:¹

“The Commissioner and the Duchy both rely on the statement in the current edition of Halsbury’s Laws to the effect that the Duchy is not a separate legal entity. However, it should be noted that the current author of the relevant section of Halsbury’s Laws is a Solicitor at Farrer’s, the retained solicitors of the Duchy and the Heir in his distinct capacity as Prince of Wales. This assertion is unsupported by authority and it is striking that neither of the previous learned authors of the relevant section in Halsbury’s Laws saw fit to include any such statement of opinion”

The conflict of interest here is obvious. It would be bad enough if the editor of a section of work of reference was conflicted in this way but Halsbury’s Laws of England is not just a legal text book in fact it has a similar status to Erskine May. Halsbury’s Laws provides the only comprehensive narrative statement of the law of England and Wales² and a definitive authority of the law of England and Wales.³ The Duchy’s appeal against the decision in Bruton v IC states that Halsbury’s Laws is the only authoritative legal commentary to deal with the issue as to whether the Duchy is a legal person.⁴

Given the seriousness of this conflict of interest, we fail to see how the public can have confidence that Halsbury’s Laws of England has not been manipulated for the personal advantage of Prince Charles in a way that is both unfair and undemocratic.

This is compounded by the view that the assertions made in Halsbury’s Laws are “not supported by authority”.

We are left wondering just how far Prince Charles is prepared to go to avoid accountability, taxation and transparency.

Republic relies entirely on donations and subscriptions from our supporters. Back our campaign for democratic reform at www.republic.org.uk/join

2 July 2013

¹ Appellant’s arguments in Bruton v IC [http://preserveportnavasquay.co.uk/doc/Bruton_v_IC_appellant’s_skeleton_for_FTT_\(FINAL\).pdf](http://preserveportnavasquay.co.uk/doc/Bruton_v_IC_appellant’s_skeleton_for_FTT_(FINAL).pdf)

² <http://www.lexisnexis.co.uk/en-uk/products/halsburys-laws-of-england.page>

³ <http://www.biall.org.uk/pages/halsburys-awards.html>

⁴ <http://preserveportnavasquay.co.uk/doc/Application.PDF> (page 3)