



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government and Communities Committee

**Wednesday 31 May 2017**

**Session 5**



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**LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE**  
**17<sup>th</sup> Meeting 2017, Session 5**

**CONVENER**

\*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

**DEPUTY CONVENER**

\*Elaine Smith (Central Scotland) (Lab)

**COMMITTEE MEMBERS**

Kenneth Gibson (Cunninghame North) (SNP)

\*Jenny Gilruth (Mid Fife and Glenrothes) (SNP)

\*Graham Simpson (Central Scotland) (Con)

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

\*Andy Wightman (Lothian) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Jackie Baillie (Dumbarton) (Lab)

Ronnie Hinds (Accounts Commission)

Mark McCabe (Audit Scotland)

Fraser McKinlay (Audit Scotland)

**CLERK TO THE COMMITTEE**

Clare Hawthorne

**LOCATION**

The James Clerk Maxwell Room (CR4)

**Scottish Parliament**  
**Local Government and**  
**Communities Committee**

*Wednesday 31 May 2017*

*[The Convener opened the meeting at 10:00]*

**Decision on Taking Business in**  
**Private**

**The Convener (Bob Doris):** Good morning, and welcome to the 17th meeting in 2017 of the Local Government and Communities Committee. I remind everyone present to turn off mobile phones. As meeting papers are provided in digital format, members may use tablets during the meeting. We have received one apology this morning: Kenneth Gibson MSP will not be with us.

Agenda item 1 is a decision on taking business in private. I invite the committee to agree to take in private item 5, which is consideration of a draft letter to local authorities regarding their strategic housing investment plans. Do we agree to take the item in private?

**Members** *indicated agreement.*

**“Local government in Scotland:  
performances and challenges  
2017”**

10:00

**The Convener:** Under agenda item 2, the committee will take evidence from the Accounts Commission on its report “Local government in Scotland: performances and challenges 2017”.

I welcome from the Accounts Commission Ronnie Hinds, the acting chair; and from Audit Scotland Fraser McKinlay, director of performance audit and best value; and Mark McCabe, senior manager, performance audit and best value. Thank you all for coming to the committee this morning; it is appreciated. I invite Ronnie Hinds to make some opening remarks.

**Ronnie Hinds (Accounts Commission):** Thank you, convener. I start by expressing our appreciation for the opportunity to come to the committee. I think that we had a productive engagement with the committee some months ago when we looked at the financial review, which is the sister report to the one that we are here to discuss this morning—I hope that that was as true on your side of the table as much as it was on ours.

We welcome the opportunity to talk to the committee about the report. The fact that there are two reports is probably a significant point to make in itself. You will be aware that our previous practice was to cover quite a lot of ground in a single overview report on local government each year. A year ago, we felt that it would be more helpful to split up the report and we are still casting around in our minds to establish whether that is in fact the better thing to do. I would be interested in any feedback from the committee in that regard.

There are perhaps only three points that I want to highlight from the report, which still covers quite a lot of ground, and I am sure that there will be questions from a range of perspectives. First, because we have split the reports, there is an opportunity with this report to get into a more substantial analysis of some aspects of performance in local government than we were able to do previously. In some sections of the report, we delve into that in a bit more detail and look at comparative performance between councils on unit costs and so on.

Secondly, we are perhaps beginning to detect a bit of a trend in relation to the decisions that are being made in local government in the light of the spending pressures that local authorities are under. The trend is that the degree of protection that has understandably been afforded to the two

key services—I should probably say the two bigger services—of education and social work has consequences for the relatively non-protected services. We have a growing interest in the issue and we touch on it in the report.

The third and final point, which for me is related to the previous one, is that the commission has deliberated hard and listened carefully to local government and others on the stance that we take on the duty of best value and the requirement for continuous improvement that underpins it. We have responded to the critique, or the question that has been asked, about how realistic that expectation is in the light of an on-going reduction over a long period in the resources that are available to local government. Members will see that we state in the report that we want councils to set clear priorities, to align their plans, strategies, workforce and resources behind those priorities and to give a clear account to themselves and to the people who live in their area of how they have reached those decisions. That is an acknowledgement that simply to insist on continuous improvement for every service all the time is perhaps too demanding an ask at this point. We are interested in the committee's views on that issue, too.

I highlight those three issues but, as I say, it is a wide-ranging report, so I am sure that members will have questions from a range of perspectives and we will do our best to answer them.

**The Convener:** That is helpful, Mr Hinds. Thank you very much. I am conscious that this is a different way of doing things. We have had a cut at the numbers underlying strategic performance, as the financial overview has been published. This report is about how local authorities are managing the financial position going forward in a strategic way. You note that there are real-terms cuts for local authorities in the revenue grant. In your opening statement, you also mentioned social work and education.

The committee is keen to look at the overall spending power of local authorities: at not just the revenue grant but other areas. You mentioned social work, and of course we now have integration joint boards. During the committee's budget scrutiny process, Councillor McAveety, the then leader of Glasgow City Council, noted that £33 million was going to the council to ease pressures on social work services. That money would not feature as part of the revenue grant.

There has been a lot of publicity about education and the £120 million attainment fund. Such figures do not feature as part of the revenue grant support, but the Government often quotes them and gives a different set of numbers. When you talk about services such as social work and education being protected, are you referring to the

moneys that I have mentioned or to separate ring-fenced moneys in local authority settlements? In that context, can you give us a better understanding of the situation? I do not want to play the numbers game, but I want to get some context. Are we talking about real-terms cuts in the overall total spend by local authorities or in the revenue grant specifically? How do you distinguish between those in looking at local authority performance?

**Ronnie Hinds:** I will ask Fraser McKinlay and Mark McCabe to respond on the specifics of the different funds to which you referred. My opening remarks were intended to be all-embracing; I am talking about the total available funding. When I talk about relative protection for education and social services in particular, it reflects the fact that those are high-priority services and that the Scottish Government and local government share policy priorities for them.

When it comes to budget decisions, any service that can be spared—over and above the protected funding streams—by not asking it for savings or cuts will tend to be a priority for most councils. The consequence will be that other services will bear the brunt—that was the thrust of my remarks on that subject.

Fraser McKinlay or Mark McCabe can give you more information on the funding streams.

**Fraser McKinlay (Audit Scotland):** I am happy to pick that up. We had a good discussion about those issues in our previous session with the committee. On the back of the committee's work through the budget review group and its report, the cabinet secretary has said that the Government will try to bring more clarity and transparency to the whole area for the next budget cycle. That will be enormously helpful and will make a big difference.

Our starting point is reasonably straightforward: we follow the money, looking at which budget line it goes into. As you know, the integration money officially, in technical terms, goes into the health budget, so we do not include it specifically in our figures. Exhibit 2 in the report covers all the different bits of funding, and the notes explain how we have reached that position.

We are absolutely aware that there is other money in the system. When we previously appeared before the committee, we talked about city deal money as an increasingly important part of the jigsaw. Similarly, there are service charges and income from other places, and there is an increasing appetite for, and interest in, what councils would call a more commercial approach to generating income. There is no doubt that the complex financing landscape in local government

is moving on apace, and we need to keep pace with that.

The committee will remember that, at our previous evidence session, we committed to see what we could do at our end, along with other bodies and colleagues, to be more consistent in how we report on that area. The team has done some really good work with the Scottish Parliament information centre's financial scrutiny unit, and we now have a shared approach—a shared methodology, if you like—for the time series reporting in particular.

The committee may remember that there was some discussion about how we account for police, fire and so on. We are now using the same approach as our SPICe colleagues. As independent commentators, we are trying to get to a place in which we at least present on the same basis as others. With the committee's work and our work, we are heading in the right direction to get more transparency and clarity about how all this works.

**The Convener:** That is very helpful, and it provides a context for our discussions. However, irrespective of the numbers, local authorities are obviously facing challenging situations, and we want to look at how they are managing some of those. We will move on to that subject now—I will bring in Elaine Smith MSP.

**Elaine Smith (Central Scotland) (Lab):** Good morning, panel. What are some of the barriers faced by councils in adapting to the challenging circumstances that the convener has mentioned?

**Ronnie Hinds:** I will kick off. Clearly the complexity of the environment in which councils have to work constitutes a challenge with regard to how they perform their core duty of delivering services at best value. In some respects, that is set out in exhibit 5, which I acknowledge could easily be read as a series of excuses. I hope that that is not the case, because that is not the intention, but we have to be fair, honest and realistic when we look at what councils are being asked to do, and I think that that set of challenges—the legislative and policy changes and the various other things that councils have to contend with—is part of this issue.

Perhaps a key response to some of those challenges is to work in partnership with other bodies. We have always been interested in that, and we are taking an increasing interest in it, but in itself it brings challenges. It is not that we think that local councils are insular and do not want to work in partnership—far from it. However, working in partnership requires a different *modus operandi* for a council from when it is responsible for things at its own hand, and some of the challenges that it faces actually become bigger, because the

organisations with which it might work in partnership will have their own challenges and priorities that will not always coincide with its own.

That is my first take in answer to your question: the environment is complex and dealing with it is not easy, either.

**Elaine Smith:** Perhaps I can stop you there to ask another question. Is that what you mean when you refer to evaluating

“options for change and service redesign, including options for investing to save”?

It is a bit strange to talk about “investing to save” in the current climate, given the cuts to budgets.

**Ronnie Hinds:** That is not what I meant, but it is a fair point to make in relation to the first question. For me, “investing to save” partly means a council looking at its capital and revenue expenditure; if it has scope in its capital budget, as councils quite often do, it is wise in the current climate to prioritise projects or programmes that are likely to deliver reduced running costs. Indeed, we have seen quite a lot of evidence of that. That is mainly what we mean when we talk about investing to save.

**Elaine Smith:** Thanks. Does anyone have any other comments with regard to my question about barriers?

**Ronnie Hinds:** I do not, but others might want to comment.

**Mark McCabe (Audit Scotland):** Councils are certainly facing challenges from the demographic changes outlined in our report, which will have particular implications for big services such as social work and education. Councils need to balance such things with the demands arising from legislative and policy changes and all their local priorities. As Ronnie Hinds has said, the picture is really complex.

**Elaine Smith:** Carrying on with this line of questioning, I know from having been employed for 10 years in local government that much of the work that councils do is carried out by staff—in other words, by people. It is a service sector, if you want to call it that. According to exhibit 6 in your report, there were 213,200 council employees in 2011, but by 2016 that figure had gone down to 198,100. When we look at that and the increasing amount of funding that is being ring fenced—or, if you like, reserved—for education and social work, the question is whether, with the increases in council tax that are now being allowed and perhaps the increase in fees for services, all of that is going to be sustainable in the longer term.

**Ronnie Hinds:** As we point out in the report, even if councils were to take full advantage of the freedom that they now have to raise council tax

without any grant penalty, it would not in any given year make a huge difference to the total funding available. We also say—this relates to exhibit 6, which you referred to—that one of the criticisms that we have been making of councils for some time now is that, given the challenges that they face and the reductions that they are having to make in their budgets, the fact that staff costs account for so much of those budgets means that they have been reducing their workforce, but we have not always seen a good workforce plan alongside that. We provide a material illustration of that in the report. Once a council reaches the stage at which it is asking itself whether things can be done differently or whether it can take a different approach to its work, it needs to have the skills in that respect.

Instances are now coming up, not just in the overview report but in our best value reports, of councils that are struggling to do that because they have let go a lot of expertise that they could now quite happily use. I recognise that it is easy to say that with hindsight, but we believe that councils should have a strategy that tries to recognise over the foreseeable future the skills that they might need to retain in order to respond to the challenges that they are going to face.

10:15

**Elaine Smith:** Given the demographics of the population, the growing demand for services and the increasing cuts to staff et cetera, is this sustainable?

**Ronnie Hinds:** Are you asking whether local government is sustainable?

**Elaine Smith:** With the increasing cuts, are we going to have to start looking at whether more investment has to go into local government?

**Ronnie Hinds:** Another point that we make in the report is that a reduction in resources does not have to coincide with a reduction in the quality or level of service. There is still scope for basic things such as good management, service reviews and so on, and for bigger approaches such as transforming the way that services are delivered. We are nowhere near a stage where we could say that there is a question about the sustainability of local government services.

**Elaine Smith:** Thanks.

**Graham Simpson (Central Scotland) (Con):** My question is on staffing. I was interested to note in the report the wide variation in sickness absences between councils. I will read out some of the figures for the record. In Aberdeenshire there is an average of 8.8 days a year of sickness absence, whereas in the Western Isles the average is 14.8 days a year. If we look only at the

figures for teachers, we see that there is a range from 4.2 days in Midlothian to 8.7 days in Perth and Kinross.

In some councils, we are talking about, on average, the equivalent of more than two weeks of sickness absence a year, which is an awful lot. What are the best councils doing that the worst councils are not doing? If the worst councils could meet the performance of the best, it would save an awful lot of money and, potentially, improve services.

**Ronnie Hinds:** I will start and then I will ask Fraser McKinlay to come in on that. I said in my opening remarks that we are now delving a bit deeper into the comparative analyses. We looked at the issue that you mention in last year's report as well—that was us dipping our toes in the water, if you like.

To put the matter in a wider context, I note that we chose that example because it is relatively free from complexity. If we try to look at comparative performance in other areas such as educational attainment, we cannot ignore the socioeconomic factors that clearly have an impact there. When it comes to managing staff absence, those factors are relatively irrelevant. It is a management issue, by and large. We picked it because it is less controversial, and it floats the idea that publicity of the variances is itself a stimulus to improvement, which is what we are seeking.

To answer the question directly, we do not have a good answer as to why some areas are better at this than others. I am pretty sure that, if we looked at the picture over time, we would find that it changed and that some councils that used to have higher levels of staff absence now have lower ones. We cannot demonstrate this just yet, but I like to think that that is because they are working collaboratively with each other in family groups and saying, "Why is your level of sickness absence so much lower than ours? What are you doing that we are not doing?"

We believe that an important role for the commission is to encourage that framework and that engagement between councils. It is their responsibility to manage sickness absence, and not ours. Our contribution is to publicise how they are doing and the disparities between them.

**Fraser McKinlay:** I can say a little more about the things that we see in the councils that are doing well on that. Ronnie Hinds is absolutely right. The starting point is for councils to have good data so that they understand their levels of sickness absence and its nature. For example, does it tend to be stress related or is it different kinds of absence? It is also important to know who the people are and, in particular, whether the

absence is long or short term. It is key for councils to understand the nature of the problem.

Beyond that, in the places where we have seen sickness absence reduce, it is partly a question of focus, as Ronnie Hinds described. It is about really focusing on the issue and ensuring that the reporting mechanisms are right, that there is monitoring and that the support is in place to get people back into work—appropriately—as quickly as possible. The longer people are off work, the harder it tends to be to get them back to work.

More broadly, in the world of human resources and organisational development, there is a much stronger focus on the wellbeing of staff, as opposed to just dealing with the issue as one of sickness absence. The agenda is now about taking a wider approach to colleagues' wellbeing, and that is the kind of thing that the better councils are doing. As Ronnie Hinds said, the starting point is conversations between the best councils and the ones that need to improve.

**Graham Simpson:** You think that it is not your job to drill down further to find out exactly what the best councils are doing.

I was struck by the fact that, if all councils matched the best-performing councils, they would gain the equivalent of 650 full-time employees across Scotland.

**The Convener:** For the benefit of committee members, could you point to the part of the report that you are looking at?

**Graham Simpson:** I am sorry—I am referring to paragraphs 31 and 32 on page 20 of the report.

**The Convener:** That is very helpful.

**Graham Simpson:** Similarly, if councils with high absence rates matched the best-performing councils, they would gain the equivalent of 160 full-time teachers.

I was a councillor for 10 years and I banged on about the issue continually, but there was very little improvement in my council. Is it enough just to highlight the differences or should we be doing more?

**Ronnie Hinds:** I hope that I did not say that I do not think that it is our responsibility to drill down any further. At the beginning, I asked where we might take such analysis in the future, and I would be interested to hear the committee's views on that.

I said that addressing the issue is primarily the responsibility of the councils—as the employing organisations, they have the policies and practices at their disposal to do that. We must ask what contribution we can best make. My view is that publicising such performance in comparative terms is a useful contribution for the commission

to make. I know that that will be a stimulus for those councils that do not look terribly good—whether in relation to absence rates or in some other respect—to do something about it. Publicity helps in that regard.

Beyond that, as Fraser McKinlay described, if we identify good practice, we will highlight that. We do not have an example of good practice on sickness absence management in the report, but we have other examples of good practice by councils. If we find good practice, we will certainly make it our business to illuminate it, and that applies to sickness absence as much as anything else.

**The Convener:** I hear anecdotal evidence about various departments in Glasgow City Council having various levels of staff absence; I am sure that the situation is the same across local authorities. The commission distinguishes between teaching and non-teaching staff in its report.

If a local authority has a particularly high level of staff absence in one department, does that not suggest that there is something amiss with investment in that department or with the management culture? Does it not suggest that some action needs to be taken? Would you ever flag up to outlier local authorities that they ought to have a close look at that?

**Ronnie Hinds:** Mark McCabe might want to say a bit more about that, because it takes us into the realm of audits of individual councils.

I agree with what you say. At a strategic level, as part of our new approach to best value, we are ensuring closer alignment between the exercise that is carried out in a council every five years or so, whereby it looks for best value in accordance with statute, and the annual audit that takes place every year. Because of that, if we discover the kind of issue that you have just described in an individual council, we will be in a stronger position to flag that up not just in the annual audit report but in the best-value report that the council will receive. I would not expect us to cover that in a report such as the one that the committee is looking at today, which covers all 32 councils in Scotland. However, when we come to Glasgow City Council, which is the council that you mentioned, if such an issue were apparent to us, I would expect to see that mentioned in the audit report.

**The Convener:** Before Mr McCabe comes in, I should point out that I am not targeting Glasgow City Council; I am merely making the point that I hear anecdotally about varying levels of absence in various departments. Does that tell you something about how one department needs to improve in relation to the others? Should that flag

up in the management systems of any local authority—not just Glasgow City Council—that it needs to take appropriate steps to investigate and scrutinise that?

**Mark McCabe:** As Ronnie Hinds said, the data that is available nationally does not get broken down by departments. We have only data at council level, and that is broken down into teachers and other employees, so it is difficult to investigate some of those anecdotes.

We have looked at individual councils as part of our best-value audits and, as Ronnie also said, we have assured ourselves that councils understood where the absences were. We hear anecdotally that absences tend to be higher in departments such as social work, where there are a lot of pressures. That is a problem across all councils. However, a big part of our best-value audits is in seeing whether councils understand where the sickness absence is and in ensuring that they have in place the best practices and are comparing what they do with others.

The national figures do not highlight where some of the councils might have outsourced services, so we are not always comparing like with like. If councils deliver more services in-house, the risk is higher that they will have a higher absence level than those that contract out services.

**The Convener:** That is helpful. Thank you.

**Andy Wightman (Lothian) (Green):** What is your impression of the extent to which local authorities are learning from each other about their performance not only in the light of your work and the reports that you produce but in the light of the services that are available to them, such as the Improvement Service?

**Ronnie Hinds:** My general impression is that councils are learning. We would hope and expect that to be the case, given the pressures under which they operate.

I can point to measures such as the benchmarking framework, which is referred to in the report. That collective enterprise is run by councils for their own benefit and we take a keen interest in it, not least because we have, in effect, devolved the responsibility to councils to come up with the indicators against which their effectiveness will be measured. We have a statutory duty to report on that, but it is better that they come up with meaningful measures than that we do that. We have a key stake in that particular game, and we take an interest in what they are doing. From what I know of that work, it is a vibrant context in which learning takes place.

Councils are also making increasing use of the Improvement Service. There will be common or generic themes that more or less all councils will

ask the Improvement Service to help them with, and there will be other themes that are particular to the individual council. A stimulus for seeking support would be a critical report from the Accounts Commission—we see a fair bit of evidence of that happening.

When we have issued a report, whether it is good, bad or otherwise, we try to meet the political and the management leadership of the council and to have an honest conversation, in confidence, about what they will do in response to the report and their thoughts on how the audit was conducted. We almost always find that councils look to their own resources in the first instance to address the areas in which we have been critical of them, but they will also look outside, to the Improvement Service and to other councils—we are seeing more evidence of that, too.

There is quite a lot of evidence of councils having, for example, management meetings to which the senior management of another council are invited periodically to present on what they are doing, because that has been seen to be representative of good practice and something that the council would be interested in.

That gives you a flavour of what we see, through our work, that councils are doing. As I have said, we would hope and expect that to be the case. Given what councils have had to deal with over the past six, seven or eight years and what is in prospect over the foreseeable future, if they consider that they can contend with that simply through their own devices, they are heading for more difficulty than need be.

**Andy Wightman:** Thank you. That is useful. I have another question about education and social work. You know from your report that those fields take up more than 71 per cent of councils' budgets. However, in both fields, we see increasing reforms taking place, stimulated by the Parliament and the Government—for example, on governance, through the education governance review, and on funding. You gave the example of Inverclyde Council: if it makes a 5 per cent saving in education, social work and other protected budgets, savings of potentially more than 40 per cent would be needed in other budgets.

10:30

Trading standards, environmental health, housing, planning and leisure are all very important for local people, who expect good services. However, they have less control over them as a consequence of the fact that the Government and Parliament are making demands on those big services. Is there a case for looking at the governance and performance of local authorities in education and social work as one

aspect and at their governance and performance in the rest of their responsibilities as another?

**Fraser McKinlay:** Your point is well made. As the chair mentioned in his opening remarks, the more the big services are protected, relatively speaking, the bigger the impact will be on other services. That is why we urge councils to think differently—out of the box—and to undertake good options appraisals about how those services can be delivered better and more efficiently.

We do not subscribe to the notion that we are in the business of managed decline; the commission does not say that at all. We rightly and appropriately demand that councils look at the performance evidence in the report, such as the variations in unit costs and performance. If every council performed as well and as efficiently as the best council in the land, that would go a long way to finding a solution. Alongside that, we now have more evidence about councils and more innovative ways to organise services in the information that is captured in exhibit 7 in our report.

That is a long way round to say that councils need to figure out those solutions and talk to other councils in their areas. The committee will be aware of the northern alliance, which is an alliance of several councils in the north and north-east that started around a shared problem of teacher recruitment and that has blossomed from there. Good stuff happens when councils talk to one another and pull together to grapple with the big issues that they face. The three Ayrshire councils increasingly join up on various matters. In addition, regional models are developing, notwithstanding the more formal governance reviews, and we will see more of them. From our perspective, it is important that decisions are taken well. Councillors need good information to ensure that their decisions are based on solid evidence about the future.

**Ronnie Hinds:** Whether further separation of higher priority and bigger services from the rest of local government services would be of benefit depends partly on the funding arrangements that would go with that separation. Funding fundamentally drives some of the service and performance matters that are highlighted in our report, so the committee would need to consider that issue. Councils could conceivably get to a point at which the remaining services had been further starved of resources and separation would not have served any purpose in making them more sustainable.

Beyond that, the partnerships that councils work with reflect the fact that the outcomes that people are entitled to expect from public services and the associated spending are complex and interrelated and cannot, by and large, be identified for a

particular sector—not even one as wide as local government. There would be risks in achieving some of the outcomes if we had yet more balkanisation and complexity than there is in the public sector at present. I counsel caution on that point. I think hard about the environment in which councils have to work, which makes me reflective about solutions that might appear clear because of structures but that might not have the intended result.

**Elaine Smith:** Mr McKinlay spoke of moving towards regional models, but we had regional models up to the 1990s. We had regional councils that dealt with education and social work as well as district councils that dealt with other issues. Given the squeeze that you have outlined on other services because, as your report says, the big services are taking up to 80 per cent of the funding, is it now time to look again at the whole structure of local government and put regional models on a different footing? Do we need to reorganise local government?

**Ronnie Hinds:** You mentioned Fraser McKinlay's comments. I wonder whether he wants to explain himself. I can comment afterwards.

**Fraser McKinlay:** I am happy to do so. That is an important question. The balance is always between two approaches. On the one hand is what I was describing, which is councils themselves—on some topics and in some areas—thinking that that is the best way to deliver services. That is what we are seeing develop on a regional basis. Such an approach is not about everything all the time but is about specific things, whether they be roads, teachers or individual matters.

That is quite different from a more top-down approach that says that we should go through a big local government reorganisation. The reason that there has been very little appetite for that in local government—and certainly, up until this point, in the Scottish Government—is the amount of time, effort and energy that it takes to reorganise any public service but councils in particular. It takes away the focus and energy from councils in trying to deliver the services that they need to deliver.

The Government has committed to undertaking a review of local governance. It is also committed to introducing a local democracy bill at some point. It is early days, but I expect that those vehicles will be exactly where such a question will come up.

**Elaine Smith:** Do you think that, overall, there is a willingness among councils to collaborate not only with one another but with communities in their areas in order to do things differently?

**Ronnie Hinds:** On the whole, there definitely is. We have mentioned the challenges that that

poses, but I should also balance the books, as it were, by saying that we recognise that a lot of effort goes into what is needed to work collaboratively. Over the next year to 18 months, we will produce a piece of work with other scrutiny bodies that will look at the framework of the Community Empowerment (Scotland) Act 2015 and what is being done at a local level to give substance to it. That will be an interesting piece of work, because—if I may put it in this way—that is where the action now is in that regard.

Going back to Ms Smith's previous question, I will not give her a direct answer about whether some form of reorganisation is important but I will say that the evidence in our report suggests that there is still quite a lot of mileage in working within the system that we have. In some cases, the variances in performance and cost are still quite striking. If everybody were to operate at the best level in both those regards, things would be on a much better footing across the board than they are now. For me, that is the productive way to look at the issue at the moment. It is where the action ought to be if we are to maintain—and, I hope, improve—the level of services that the public expects from councils.

**Jenny Gilruth (Mid Fife and Glenrothes) (SNP):** Good morning, panel. I will start by asking a general question. Mr Hinds, you said at the start of the session that the Accounts Commission wants local authorities to identify their priorities clearly and communicate them effectively to the public. What is your view on councils' ability to resource effective long-term financial strategies and planning?

**Ronnie Hinds:** For the past two years, in the financial overview, we have covered the difficulty that councils face when so much of the funding that comes from the Scottish Government is on a one-year basis. It would be right to acknowledge, in the first instance, that that is not helpful—we have said as much.

We have also said that, despite that, a number of councils are producing viable long-term plans. Perhaps we have to make more assumptions than we would do if we had the figures clearly in front of us and look at a wider range of scenarios, but those are all skills and good things to do in any event. Even if we had more certainty about funding in the longer term, the other imponderables would still exist. For example, what demographic changes will there be? What other issues will we face at a local level that might be unique to us as opposed to generic issues for Scotland as a whole? All those things factor into good long-term planning, so we have no hesitation in saying that councils need to be good at that and must get it on to a solid footing, which starts with having clarity about their priorities.

That brings me back to the point that I made in my opening remarks. I am not saying that the Accounts Commission will be entirely neglectful of an area that does not seem to be well handled in a council that is not performing well just because the council has said that that is not a priority area for it. The area might not be as high a priority as something else, but it remains a responsibility of the council and we expect to see reasoning behind the decisions that are made. We also expect to see resources following that vision, that thinking and those strategies. If that has been done, we will look differently at an area that is perhaps not performing as well as it could do. That is not to say that we will not be critical of it, but we will, I hope, look at it with an understanding eye.

**Jenny Gilruth:** One of the biggest issues in long-term planning is workforce planning. The report notes that half of Scotland's councils do not have organisation-wide workforce plans in place, and one of your recommendations is that that approach be brought in.

Mr Hinds, you might be acquainted with Fife Council's approach to teacher recruitment. This time two years ago, when I was a principal teacher, I was involved in a generic recruitment process. Fife Council does not identify where the vacancies are; it sets up a generic application process and, late in the day—in June, I think—it appoints members of staff to jobs, so the process is retrospective. It is reactive rather than proactive. Kids make their course choices in February, so the council is well aware earlier in the year of what the numbers will look like in terms of staffing requirements. From my experience, I would say that Fife Council is not very good at workforce planning. As you say, more than half of local authorities do not have workforce plans in place. Do you think that there is capacity in the system for those councils to catch up with the others?

**Fraser McKinlay:** The short answer to that question is yes, and I think that they need to. As you know, the absence of a workforce plan can affect all the bits of a council's people management including recruitment. However, as we say in part 2 of the report, councils have been reducing the number of staff that they have overall and, up to now, too many councils have been doing that in the absence of a good workforce plan. I understand that lots of councils put out a general call for voluntary redundancies because they had to save money quite quickly. The risk in that is that the organisation will lose people who, one or two years later, it will wish it had not lost.

If councils do not have a good workforce plan that enables them to look three, five or 10 years ahead at the shape of the workforce that they will need, the skills that they will need, and the way in which they will construct their social care

workforces, it feels as though they are operating blind. The commission has been clear on that in the report. We will follow that up in our audits of individual councils, because the picture varies across the piece. We will turn up the volume on the issue a little bit over the next while, because it is such an important part of councils being fit for the future.

**Graham Simpson:** You mentioned redundancies. A number of councils have had and continue to have a policy of no compulsory redundancies. Do you think that that is hampering their ability to plan their workforces?

**Fraser McKinlay:** We have not seen any evidence of that to date. I do not think that that policy is the problem, and I do not think that the question of whether the choice to have that policy was an entirely legitimate one for the council to make is the issue. Apart from anything else, it is possible to target voluntary redundancy schemes on specific bits of the workforce if you want to; it does not have to be open-ended. Councils that have been prudent with their finances and reserves are, generally speaking, not in a bad place, so they can afford to invest in such things.

**Alexander Stewart (Mid Scotland and Fife) (Con):** You have talked about the challenges that councils face, and there is no doubt that there are many. However, you and many other people gauge how well a council is managing by reference to its reporting and its performance. When there is a need for cultural change and strategic improvement, is that taking place through the performance process?

**Ronnie Hinds:** The answer would be yes, but not universally. It is not taking place to the same extent everywhere. The area is quite complex because it involves leadership and culture. It might help if I give an example, because it is quite difficult to give a general comment across the board on this issue.

Today, we publish the commission's findings, along with the controller of audit's report on Inverclyde Council, which is the first of the 32 councils to be subject to our new best-value audit.

10:45

We say in the report that we detect a cultural shift in the organisation since a previous report on best value, in which the council was subject to quite a lot of criticism, came out 10 years ago. Culture is amorphous and hard to define, but whatever it is, it takes quite a long time to change. Over a 10-year period, we have seen a significant change in the culture of that particular organisation.

How does such change come about? In the first instance, it did not do the organisation any harm to get a bit of a shock to the system, and there was then a positive response to that. There was clear leadership at the political and managerial levels, a shared set of priorities—which might strike the committee as something that should be taken for granted, but that is not necessarily the case—and a focus on what needed to change. That approach has been driven through the organisation over a period of time, and, 10 years later, we are now confident that we can comment favourably on the cultural shift in the council.

That is an illustration of what such a change might mean in practice for one organisation. We hope that councils will take anything useful that they can from those reports, which we know that they read.

**Alexander Stewart:** Performance now involves councils having to prioritise. You responded earlier to the point about managed decline. Performance is all about how councils prioritise their time, resources and money to ensure that they get the best possible value for their assets and employees. It is about how they try to manage those things and how they perform in the process.

How do councils ensure that they capture all that in making things as good as they can be for all their employees and for the communities that they represent? Councils cannot give people everything; they have to be strategic. They talk about long-term and short-term planning, but they must prioritise what can and cannot happen, and expectations come into that. It is about trying to get the whole mix together. It would be good to hear your views on that.

**Fraser McKinlay:** As you know better than I do, that is not easy, but the ingredients should be well understood. Clarity of direction and in setting priorities is required. As Ronnie Hinds said, that does not mean other things are not important—it simply means that some things are more important than others. It is about councils ensuring that their people, money, buildings and information are aligned and ready to support those priorities.

To come back to an important point that was made earlier, community engagement is critical in that respect. People have different views about what is important and, if a council has to invest in some areas and potentially disinvest in others, it is really important that the community understands why that is the case and is part of the whole process. If there is one area that councils need to develop, it is that one. The community must be engaged in the decision-making process. That now needs to go beyond a broad-brush consultation with questions such as, "This is what we're doing—what do you think?" Communities must be brought in much earlier.

We have managed to get this far through the meeting without mentioning the elections. We now have a great opportunity, as there are 32 new councils in place. The commission is reminding everyone that the duty of best value rests with the council. Regardless of the entirely legitimate political activity that has been going on and which will, I am sure, continue over the next few months, all the things that Mr Stewart has just described are the responsibility of every single member of the council, and we are working on that basis.

**Alexander Stewart:** The work has to be audited and scrutinised by everyone in the council. They take on that role and responsibility, whether they are in the administration or in opposition, with regard to what can be achieved. It is about trying to get a balance and if that can be achieved, real progress can be made.

**Fraser McKinlay:** Yes. The cycle of performance must include effective scrutiny by officials and, importantly, by councillors.

**The Convener:** I want to follow a line of questioning that a few other members have taken, on benchmarking exercises and the need to drive performance improvement consistently across all local authorities.

Mr Simpson rightly asks how we can improve staff absence levels within and outwith education. The report shows that staff absence levels are technically improving. It is not a wonderful story to tell but it is a reasonable story to tell. However, there are still inequalities between various councils.

Exhibit 12 in the report is about the cost of council tax collection, and it is a real stand-out. There does not seem to be any correlation between the unit cost of collecting council tax and the collection rate. It would appear that it costs approximately £11 or £12 per dwelling to collect council tax in Glasgow and North Lanarkshire, but it costs about £4 in Fife. That seems to be a dramatic difference.

In defence of Glasgow, I note that the report states that Glasgow has dramatically reduced the collection cost from more than £18 per dwelling to just under £11 per dwelling. That is a reasonable reduction but there is still a massive difference in the costs. How do we drive change in this area? It seems unacceptable that there is such a variation. How do we drive this change forward?

**Ronnie Hinds:** That is a very important question and it partly contains the answer within itself. You are right to point out that Glasgow has already improved significantly in that regard. We would like to think that one of the benefits of exposing the comparisons in this fashion is to raise people's sights about the art of the possible.

It would be easy—although I do not think for a second that Glasgow would do this—to be self-congratulatory and to say, “The cost used to be 18 quid and now it is 11 quid so we are doing really well,” but if councils look at the comparison table, they realise that others might be doing better still. That is my first point. One way to drive improvement is to highlight that something better might be happening elsewhere.

Beyond that, this is an issue for the commission. Council tax is not like sickness absence. I made the point earlier that sickness absence is relatively immune to the socioeconomic context within which a council operates. I would not view council tax collection in the same light because clearly it makes a difference if you are trying to collect council tax in areas in the east end of Glasgow compared with St Andrews—to use the comparison with Fife. You have to take that relevant context into account somehow.

The wrong way to do it is to say that it is just that much harder to collect council tax in Glasgow and therefore this is the best that you can do. The right way to do it is to get into the bones of what is distinguishing your performance from somebody else's, over and above the environment in which you unavoidably have to work.

For us as a commission, we think that that might be the next chapter in this story. We would like to get into the detail of that a little bit more—we know that councils are doing it—to understand better where the limitations are around just how good performance could get.

To give an example of why I say that, the Improvement Service has done some preliminary analysis in the area of education in its annual benchmarking report and the analysis suggests that about half of the variation on educational attainment between councils in Scotland can be explained by reference to the socioeconomic context in which children are being educated.

What about the other half? Where does the difference come from in the other half? It looks as though it has something to do with performance. That, for me, is the next area to look at in terms of driving improvement.

**The Convener:** Is that the kind of thing that the Accounts Commission would look at? Would it do a focused report specifically on council tax collection, produce exemplars of best practice and then build relationships with local authorities to drive that change?

I am conscious that you do not run local authorities; you look at their performance and make some general recommendations when you do the overview report. How would you take things forward to get into the meat of this a little bit more?

**Ronnie Hinds:** I would take it forward in at least two areas. One area is something that we already do—if you look at our 2016 report on roads maintenance, you will find a flavour of what you have just described. We are looking increasingly at variations from one part of the country to another on a thematic basis or a service basis and we will continue to do that.

In relation to future iterations of this report, I would expect to see the possibility of getting into that in a bit more detail at least examined. I do not underestimate the challenges that are involved. It is a lot of data and a lot of analysis and some of it will be quite complex but as a contribution to public debate on this, it is the obvious place to want to get to. That is the second area in which I would expect to see us take this forward.

**The Convener:** I have a final question about benchmarking performance, although I know that my deputy convener wants to ask a question, too.

This probably says more about me than the exhibit itself, but I found it quite difficult to understand exhibit 13, which highlights the cost of cleaning our streets across local authorities and sets out a cleanliness score to show whether performance is increasing or decreasing. It is clear from that exhibit that street cleaning is an area in which local authorities across Scotland have either cut financial investment or sought to make efficiency savings through service reform—you pay your money, you take your choice with regard to how you frame that.

However, with the quite dramatic cuts that have been made, there has, it would appear, been a consequential dip in performance. That said, despite substantial cuts, one or two authorities have managed to improve performance slightly; for example, if I am reading the exhibit correctly, Falkirk Council made a 32 per cent cut but had a modest improvement in performance. Such an achievement seems quite commendable, given the cuts that have been made across the board in other local authorities and the fairly directly corresponding diminution in the level of street cleanliness. What did Falkirk do well that other councils did not, and how do we promote that?

**Ronnie Hinds:** You are not the only one who had some difficulty reading exhibit 13. As we were waiting to come in, I had to confess to my colleagues that it dawned on me only last night that the diagram represented the map of Scotland.

**The Convener:** I got that.

**Ronnie Hinds:** Then you are well ahead of me, convener, because it took me a while to realise that.

I would contest your comment that the exhibit demonstrates a clear correlation between

reduction in expenditure and reduction in service. The picture is much more mixed than that, which is why I noted earlier the clear possibility of reducing expenditure and, at the very least, maintaining performance. In that respect, you are right to pick Falkirk as a conspicuous example, but there are also examples of councils increasing expenditure without necessarily getting a big enough bang for their buck. Some of them might have improved their service as a consequence, but they have not improved it as much as they have increased expenditure. The correlation, therefore, does not seem that clear to me.

As for how we use this as a stimulus for improvement, I come back to my earlier point that if one council—Falkirk, for example—manages to find some way of keeping its streets at least as clean as they were before while significantly reducing the budget, every other council in Scotland should be asking Falkirk how it did that. I am pretty sure those conversations are taking place not just about street cleanliness but about other things that I know councils are comparing.

**The Convener:** I suppose that I should be pleased that I understood the exhibit half correctly. I will settle for that.

You assume that those conversations are taking place. Should we just assume that and let our local authorities get on with it, or should there be a structured and channelled approach in that respect? I am sure that councils will want to do that sort of thing—why would they not?—but what role might the Accounts Commission play in driving some of that forward?

**Ronnie Hinds:** As I have said, we will report in these terms in future overview reports and perhaps in greater depth in other reports. We also have an on-going engagement with the Improvement Service, which underpins this benchmarking and other such work. The commission's expectations are clear and known, and the fact that we are reporting on these matters is testimony to those expectations.

I would also like in future reports to say something more about the nature of the work that we believe is taking place behind the scenes, with councils looking at each other's performance and costs and asking, "How do you do that?" We do not have substantive evidence of that to put into this report, but it is one of the things that we would like to be able to highlight in order to provide assurance going forward.

**The Convener:** I guess that some of the exhibits in the report will inform some thematic work that might take place—and I think that you previously mentioned roads in that respect. Can we expect in the years ahead specific workstreams to be put in place with regard to

some of the report's more interesting findings? Do you have any ideas about what is likely to come next?

**Ronnie Hinds:** We think that the risk posed to services that have less protection is a significant public interest issue. I cannot give any commitment just now because we are still at the planning stage, but our attention is being increasingly drawn to this whole range of areas, if we leave to one side education and social work. Street cleanliness is an example, but there are many others, and I think that we would be doing a public service if we had more scrutiny of those areas.

**The Convener:** That was very helpful.

11:00

**Elaine Smith:** We might be reaching the end of this evidence session, but I want to go back to the chair's introduction at the beginning of the report—and, for the benefit of colleagues, I want to look at paragraph 3 on page 4. First of all, though, I will put my question into context by noting that elsewhere in the report you say:

“between 2016/17 and 2017/18, total revenue funding from the Scottish Government will reduce by about £216 million in real terms”.

In his introduction, Douglas Sinclair says:

“Councils are increasingly relying on the use of reserves to bridge projected funding gaps. Moreover, recent Best Value audits have highlighted a dependency on incremental changes to services, increasing charges and reducing employee numbers in order to make savings. These are neither sufficient nor sustainable solutions for the scale of the challenge facing councils.”

Are you actually saying, then, that alternative forms of service delivery and working together—the things that you have been talking about—are the answer instead of increasing central funding or, indeed, making fewer cuts?

**Ronnie Hinds:** I do not think that there is any one answer. Different ways of delivering services must be part of it, simply because of the comments that you have drawn our attention to. If there is no end in sight to the trend of reductions in resources, it is foolish to carry on responding to that incrementally year on year. You have to get ahead of the game a little bit, and that is our intention in enjoining councils to think differently and look at some hard and radical options for different ways of delivering services.

However, that is not—to use a cliché—a magic bullet. There are various other things that councils can do and indeed which they already do particularly well that can help in this regard. I have mentioned Inverclyde, because that report came out today; as it shows, that organisation has managed to turn itself around very well without

making some sort of magical transformative change and just by doing some of the things that Fraser McKinlay described earlier such as having on-going service reviews to give you a clear idea of what you want to do and what your priorities are and putting your resources into those things. Those basic elements of good management are part of the answer here, too.

We would not say that there is any one solution to the difficulties that councils face, but we also think it a mistake to carry on as if nothing really changed seven or eight years ago and as if things are somehow going to reverse in the next five or six years. There is no indication of that happening, and we want councils to recognise that and respond accordingly. By and large, they are doing so.

**Elaine Smith:** I understand that, but is there a point at which you are allowed to say in your report, “All of the reserves have been taken into account and changes have been made, but these cuts are having a huge impact”?

**Ronnie Hinds:** I think that that is what we are saying. There is no doubt that the cuts are having an impact. The use of reserves is an issue that we draw attention to in all of our reports, and the main point that I would reiterate is that using them simply as a means of tiding yourself over for another year or two is not the right response to the challenges that you face. The right response is to use them strategically and intelligently and invest them in changing how you deliver services, and that is what we expect councils to do.

**Elaine Smith:** Thank you.

**The Convener:** Time is almost upon us. Does anyone have anything to add before we close this session?

**Ronnie Hinds:** No, thank you, convener.

**The Convener:** All that remains for me to do is thank our three witnesses for coming along this morning. We appreciate your taking the time to give evidence in what has been an interesting session.

I suspend the meeting briefly to prepare for the next item on our agenda.

11:03

*Meeting suspended*

11:08

*On resuming—*

## **Disabled Persons' Parking Places (Scotland) Act 2009**

**The Convener:** Item 3 is post-legislative scrutiny of the Disabled Persons' Parking Places (Scotland) Act 2009. The committee will take evidence from Jackie Baillie MSP, who was the member responsible for introducing the bill in 2008, as part of our post-legislative scrutiny of the 2009 act. I think that I sat on the Local Government and Regeneration Committee at that time, Ms Baillie. I welcome you here this morning—thank you for coming. I give you the opportunity to make some opening remarks.

**Jackie Baillie (Dumbarton) (Lab):** Thank you for that, convener, and for the invitation to the meeting. I am pleased that the committee is doing post-legislative scrutiny in this area. You will forgive me, of course, because eight years is a long time, so some of the fine detail may escape me. However, I will give you the background to why I engaged with the process in the first place. It started with a constituency case, probably about a decade ago, which seems a long time ago indeed. The case involved a neighbour dispute that arose because, frankly, the next-door neighbour of the constituent who came to me persistently parked in his disabled parking bay outside his home. The nature of his disability meant that, if that happened, he literally could not get out of his car and get to his front door and into his home.

What I did was what you would expect any MSP to do: I contacted the police. However, the police told me that they could not enforce the disabled parking bay because it was an advisory one. I contacted the council that put in the bay, but it could not do anything either. I went so far as to put the neighbour on the front page of my local newspaper in the hope that that might embarrass him into better behaviour. Unfortunately, that did not work. I contacted the West Dunbartonshire access panel, which was very helpful in suggesting that what we needed to do was consider whether the legislation was suitable. After investigating whether the issue could be the subject of a member's bill, I commenced a two-year journey and was very pleased indeed when the act was passed in 2009.

The committee has taken wide-ranging evidence on the 2009 act. I hope to help the committee by responding to its questions, but it might be helpful for me to indicate that the act—like the bill—is very narrowly focused and does a couple of things. First, it makes all the advisory bays in Scotland enforceable, which is done through a process of engagement by local

authorities. Secondly, it encourages all businesses that provide private off-street parking to make their disabled bays enforceable too. The bill skirted between devolved and reserved areas, but we managed the balance pretty well.

At the end of the day, it is about how we ensure that disabled people get the same access to their homes and shops that the rest of us enjoy. I hope that the 2009 act has contributed to ensuring that just a bit.

Thank you, convener.

**The Convener:** Thank you, Ms Baillie.

**Graham Simpson:** You have given us the background. Given that you will have heard all the evidence that we have had as part of our scrutiny, do you think that the 2009 act has achieved its objectives in practice?

**Jackie Baillie:** That is an interesting question and absolutely the right one to ask. My belief is that, yes, on balance, the 2009 act has achieved its practical objectives. In essence, the aim of the act was to make all advisory bays enforceable, which it has achieved. The evidence that the committee has taken shows interesting variations in enforcement activity. I will focus on that aspect just now and develop it in response to other questions.

At the time when we were considering the on-street parking provisions for disabled drivers, six out of the 32 local authorities, or thereabouts, had decriminalised their parking and the rest relied on police enforcement. That position has now changed in that 16 out of 32 local authorities have decriminalised their parking and I understand that another two decisions are in the pipeline. The reality of that situation is that those local authorities will employ wardens who can be directed. What is fascinating is that, as I know from responses to parliamentary questions that I lodged, the majority of those local authorities do not just cover their costs but generate a surplus that many put back into the general funds that they apply to other useful things that they do. I accept that, in areas where the police still enforce fixed-penalty notices for car parking, disabled bays are not a top priority for them. The enforcement therefore tends to be reactive rather than proactive. The enforcement is much more proactive in town centres because of the density of parking there, but it is reactive enforcement in residential areas. The police will be able to act in the kind of situation that my constituent was in, but it is probably too much to expect them to enforce disabled bays in residential areas when there are other priorities and resource constraints.

What is interesting about the off-street parking that is provided by private businesses and out-of-town shopping centres is that it is reserved and we

cannot legislate to compel private business owners to do anything. However, the minister at the time of the passing of the act was helpful in saying that the Disability Discrimination Act 1995 places requirements on the owners of private off-street parking and that the 2009 act emphasised their duties in that regard, particularly their duty to ensure there is reasonable access for customers and users of their services.

There were some obvious areas for enforcement in relation to on-street parking, where we had responsibility. In relation to off-street parking, where we did not have legislative competence to force people to do things, we tried to encourage people and to use local authorities, which understood what was going on in their areas, as exemplars.

On balance, I think that the bill has been successful in improving the rights of disabled people and—in a small, focused way—ensuring that parking is enforceable.

11:15

**Graham Simpson:** Is there anything that you would now change?

**Jackie Baillie:** The benefit of hindsight is a wonderful thing. What we tried to do with the bill—I remember the discussions with the bill team—was to future proof it. We did not specify in the bill the transport regulations or enforcement measures that needed to be followed. The idea was that the traffic signs and regulations at that time and in the future would apply to the bill so that, whatever changes were made to other pieces of legislation, the provisions in the bill would stand. I am pleased that we took that approach, because parking is an area that changes.

With the benefit of hindsight, I think that local authorities are finding the duties that are placed on them slightly onerous. It was clear from the evidence that you took from supermarkets and private car park owners that they are doing a lot of positive work to enforce the bays. The difference is that they are choosing to do it themselves rather than having local authorities do it for them.

Fife was mentioned earlier, and I think that its approach is proportionate and sufficiently proactive. It does not write to everybody every two years. It has a constant website, which is refreshed. It took care of its in-house parking first—both its on and off-street facilities. It then looked at other public bodies such as health centres and hospitals, and then it engaged in conversations with supermarkets and others. As part of planning and development, it talks to people about new developments so that appropriate things are built in from the start.

The fact that it is not local authorities that are enforcing disabled parking bays is not, for me, the test of success. If car park owners are doing it using other means of enforcement, that is a success of the bill. However, I recognise that some local authorities might find the duties on them onerous. I therefore suggest the sharing of good practice, and I understand that the Minister for Transport and the Islands, Humza Yousaf, is about to encourage that.

**Graham Simpson:** Does it matter whether councils write out to private car park operators if those operators have already made improvements?

**Jackie Baillie:** If they are already operating appropriate regimes and we are aware of that, I do not see the need to constantly write to them. We were not prescriptive about that, saying, “You need to write to them.” We simply said that contact needed to be established. I think that Fife’s approach is proportionate. I welcome the fact that there are different experiences across different local authorities. Humza Yousaf is bringing together a stakeholder group of parking managers, and I encourage him to include some representatives from the private sector but also organisations that represent disabled people.

**Graham Simpson:** Thank you.

**Alexander Stewart:** We have talked about inconsistencies in enforcement. When we had the groups here giving evidence, some of them said that we need a national public awareness campaign to try to educate and inform the public about where we are. What is your view on that? Did you think about a campaign when you were putting the bill together?

**Jackie Baillie:** We did, and your predecessor committee raised the need for a public awareness and information campaign.

The majority of us are actually quite law abiding and we tend to avoid committing offences such as parking in disabled parking spaces, but the bill, as it was taken forward, had the benefit of raising awareness not just in the Parliament but across the country. I was sent a variety of photographs, which I will not share with the committee, of leading lawyers parking in disabled parking bays, using their mothers’ blue badges to access parking outside Glasgow sheriff court. There were also pictures of police cars parked in disabled parking bays—you name it. That raised awareness.

We asked the minister at the time, Stewart Stevenson, to consider undertaking a public awareness campaign, led by Transport Scotland, the police or whoever, to drive home some of the powerful messages that were coming from disabled people. The catchphrase that I always

remember is, “If you want my disabled parking place, please have my disability, too.” That led people to understand the consequences that wrongly parking in a disabled parking space had for someone who was disabled. When people understand that, the majority of them change their behaviour.

At the time, I thought that a public awareness campaign was essential. It should not always be left to the voluntary sector to do such things; Government should step up to the plate. I am disappointed, because I do not think that there was a campaign, but it is never too late, and I encourage the transport minister to consider having one.

**Alexander Stewart:** I agree. You have hit the nail on the head. If we can get the message over using lots of examples, the public will look at the issue differently. That is vital. It may well become a recommendation.

**The Convener:** Oh! Steady on, Mr Stewart. We have still to discuss the matter.

**Alexander Stewart:** I said “may well”, convener.

**The Convener:** You never know.

**Andy Wightman:** First of all, how is your constituent?

**Jackie Baillie:** They have subsequently passed away. I am sorry to inform you of that. It has been 10 years.

**Andy Wightman:** I am sorry to hear that. You mentioned that the bill had to navigate reserved and devolved functions. There have been changes since then. Signage is a devolved matter, and we have heard views, principally from disabled groups and, indeed, councils, about whether signage should always be required, because sometimes it seems to be a bit of a hindrance. It would be useful to hear your comments on that.

We have heard evidence from Glasgow City Council and Aberdeen Council that they want to create enforceable disabled parking bays without the need for a designation order. I am not clear whether that is a devolved matter. Perhaps you could comment on that, too.

**Jackie Baillie:** Let me take your second point first. At the time, we had so many advisory bays—about 85 per cent of all bays in Scotland were advisory—because the traffic regulation order process was complicated, long and costly. Instead of doing them in large batches, local authorities were doing them in ones and twos. That was not efficient, but in fact the TRO system was onerous.

I am not sure whether the ability to create enforceable disabled parking bays is a devolved matter, but the signage element is. Right at the

start of this work, the self-same local authorities, echoed by others, said, “If you could just fix the TRO process, we wouldn’t see the need to use advisory bays, because the process would be simpler.”

You are right about the traffic regulations. On 23 May 2016, they were devolved to the Scottish Government and the Scottish Parliament. We have not changed anything about them so far; that power has yet to be used. However, in 2016, across the United Kingdom, traffic sign requirements were changed and the Department for Transport published a circular on new regulations. It may be helpful if I read out part of it:

“The placing of upright parking signs in combination with bay markings is no longer required. Instead, it is for traffic authorities to determine the appropriate signing and marking combination needed to convey to drivers any waiting, loading and parking controls contained in an underpinning traffic order.”

Therefore, local authorities have the power to do that. I suspect that they are waiting until they get clarity and guidance from the Scottish Government now that the power is devolved. The legal contention is that they could use the powers to do away with the requirement for signage. That would mean that we would need to ensure that the bays are marked appropriately and painting is refreshed from time to time, but we could do away with the expensive signage that local authorities have to put in place. That would undoubtedly be helpful. Again, I encourage the Scottish Government to look at the issue.

The new regulations do not change my legislation, because it is adapted to whatever regulation is in place at the time.

**Andy Wightman:** That is useful for now; I will come back in later.

**The Convener:** We heard a lot about off-street parking on private land. As you know, we had a representative of one of the large supermarkets and one from private car park providers here. It appeared from the evidence that we took that the situation was quite patchy as regards whether local authorities were meeting their obligations in contacting such organisations at least every two years. When they did that, some local authorities would write to all the main players in their area; others would put a notice in a newspaper or whatever. Do you think that there has been appropriate buy-in from local authorities in that regard? Has there been any buy-in at all from the private sector? Is there an opportunity to improve things in this area?

**Jackie Baillie:** I will deal with the private sector first. At the start of the bill process, we faced the unusual situation whereby, with awareness being raised, suddenly there was a queue of

supermarkets and out-of-town retail centres all competing with one another to talk about their disabled bay enforcement practice. On delving beneath that to understand what was going on, it turned out that Asda had surveyed its customers, a staggering 93 per cent of whom said that they wanted disabled bays outside Asda to be enforced. For Asda, the issue went from one that was about disabled people and their spending power to one that all its customers cared about.

At the time, Asda used the fines quite imaginatively to pass on any profit that it made to local community groups and voluntary sector organisations. I am sure that the convener, as someone who has an Asda on his patch, will probably have presented some of those cheques in the past. Asda used the measure as a means of improving customer service to all customers and paying something back into the community.

I know that the committee took evidence from Tesco. At the time the bill was being considered, I think that Tesco planned to engage marshals to enforce the bays. Now, it is using new hand-held technology that means that it does most of the enforcement itself.

The committee also took evidence from NCP, which seemed to be enforcing the disabled parking bays in its provision very proactively.

Because the private sector understands that this is a customer service issue, it has already taken measures—indeed, it took measures as a consequence of the bill, never mind the act. I know that local authorities have been proactive when planning applications have come in for out-of-town or town centre retail establishments, or from supermarkets. They have worked with the companies concerned to ensure that there is a sufficiency of disabled parking bays. As I touched on earlier, where the difference lies is that most of those companies prefer to have control of enforcement themselves, because it gives them the opportunity to cancel fines, if they feel that it is appropriate to do so, without a customer having to go through a prolonged appeals process; in other words, it gives them the opportunity to be flexible in how they respond to particular issues.

If there is a lack in the private sector, I think that it is perhaps among our smaller high street businesses, which really do not understand the need for such provision. However, on high streets I would look to individual local authorities to ensure that there is ample provision and that it is enforceable.

When it comes to the local authorities, as with everything, there has been a variable response. Some authorities have embraced the legislation—they have treated the issue as one of disability rights and have been very proactive in ensuring

that there is capacity and that it is enforced. However, I think that there are issues with parking enforcement in general. Lots of people who come to our constituency surgeries will tell us that a certain street has double yellow lines but people park on it all the time, that certain areas are not enforced or that someone parks over their driveway. That is a problem that local authorities grapple with.

When it comes to promoting the enforcement of off-street disabled parking, my contention is that it is extremely important that we encourage the private sector and that we keep up pressure and awareness. At the end of the day, if we want to get the right balance between what businesses perceive to be their needs and the rights of disabled people, we need to remind businesses of exactly what is required by the Disability Discrimination Act 1995. People with a disability must have access to their premises and to services, and they must be able to move around and go to the shops and to their town centres in the same way that the rest of us can do.

**The Convener:** That is very helpful.

It is often asserted that the question of whether the fines that supermarkets impose are legally enforceable is a very grey area. Is there a weakness in self-enforcement regimes?

11:30

**Jackie Baillie:** There has in the past been comment about whether such fines are enforceable. My understanding is that they are, but I am not a lawyer, so you would need to check with somebody who is more qualified than I am. The majority of people who are fined at supermarkets pay their fines, and the regime has certainly had a deterrent effect.

When I took the bill through Parliament, I gave examples that people had reported to me of young men driving up in their flash cars, parking in a disabled bay and saying, “It’s okay—I’m only here for a minute; I’m just in to get a loaf of bread,” or a pint of milk or whatever, and a disabled person being left stranded. That kind of thing is happening less because people are more aware. When people have been fined a couple of times, they will, if they are not persistent offenders, stop engaging in that kind of behaviour because it is expensive.

As to whether those fines are legally acceptable, they are in place, and the systems have been running for some time now. If there is a challenge to them, I would expect the courts to resolve the matter.

**The Convener:** One of the concerns about supermarkets—I highlight supermarkets because

our constituents may visit them and experience this situation on a daily basis—is that the standard of enforcement may vary between supermarket chains, and even within chains. There may be differences in the layout of car parks, the amount of disabled parking bays, how vigorously the rules are enforced and how confident staff feel about asking a customer to move. The rules can be enforced after the event, but the disabled person will not have got their parking bay. The answer is to have someone occasionally saying, “Get your car shifted—you can’t park there.” That is what we would like to see in the large supermarkets.

Should we move towards an agreed set of minimum standards—whether statutory or otherwise—that would apply across supermarkets? Supermarkets could sign up to those standards with local authorities proactively, in the same way as when you took the bill through Parliament and supermarkets were falling over each other to be exemplars of best practice. We have to return to that and reinvigorate the approach somehow.

**Jackie Baillie:** I could not agree more. It would be good to have minimum standards for what should be expected across the board, whether someone is in Tesco, Asda, Morrison’s or anywhere like that.

My appreciation of the current situation is that parking for two or three nearby stores is often bundled together and the stores share enforcement between them, with a warden or marshal who appears from time to time. With the advent of new technology, supermarkets such as Tesco are able to have in-store staff do that. That picks up on your point, which is about enforcement taking place not after the event but as it is happening. It is about not only being able to provide evidence, but encouraging staff members to challenge people who are engaged in such behaviour.

Most of the supermarkets that I know of have given training in customer service. A lot of private car parks have also trained their operatives to ensure that they approach people in the right way. They view enforcement not just as realising a profit from a fine, but as educating people so that they do not do the same thing again. The fine is there if all else fails. Supermarkets have been quite proactive in that respect, but you are right to highlight that there is variation. It would be good to have minimum standards across the board, and for supermarkets to do what they do best and exceed those standards.

**The Convener:** I suppose I am trying to get at the question of whether the conversation would be much more dynamic if minimum standards were set—either nationally or by local authorities—and duties were placed on the sector. I would much

rather the approach was voluntary, to be honest, but that does not always work. The issue is whether a duty should be placed on the sector to conform. Perhaps supermarkets could help to produce minimum standards.

At present, it seems that the requirement on local authorities to contact off-street parking providers and private providers—supermarkets in particular—has been a bit of a waste of time. It is kind of happening and kind of not happening, and when it does happen no one responds.

Therefore there is a bit of the legislation that is very well intentioned and could deliver improvement and change, but is just sitting there and not being used. Have you any suggestions on how we transform the debate on that?

**Jackie Baillie:** The problem that we have with imposing minimum standards is that we do not have legislative responsibility for doing so. That is why the 2009 act skirts around the issue and uses encouragement and voluntary approaches to try to create change.

We recognise that it will be difficult for some local authorities, because of the nature of the parking provision in their area. We rely on them—as part of their planning duties rather than their parking management ones—to ensure that the Disability Discrimination Act 1995 is applied and that there are sufficient spaces. That is the point when local authorities should encourage providers.

There is variation in what local authorities have done to embrace the 2009 act. Fife’s approach was very proportionate and sensible. If a provider writes to an authority once every two years, and that is the only contact that it has on the issue, it will not be encouraged to change and will not understand why change is such a good thing to do. Maybe it will not have heard of Disabled Motoring UK’s baywatch campaign or the Capability Scotland survey that used mystery shoppers to look at the sheer scale of the abuse of disabled parking bays and looked at the impact of that abuse on the retail provider. Making the business case to retailers who are not currently engaged is the way forward. We could adopt an approach based on minimum standards, but we would butt up against the reservation in law.

Some local authorities would certainly benefit from the sharing of good practice. That takes me back to the minister’s stakeholder group, which is something to be welcomed. If I am right, the minister is consulting on opportunities to deal with the misuse of advisory disabled off-street parking bays. Perhaps Government intervention to bring people together, which I would have welcomed at the beginning, is something to be welcomed now.

**The Convener:** That is good, but, just for the record, are you open to reframing the discussion with the private sector? That could include issues about what is or is not reserved, and it should include the issue about dictating what minimum standards look like. It could also include a best practice standard to which the private sector could sign up.

**Jackie Baillie:** Sure. The British Parking Association may indeed have such a standard already. Anything that promotes an increase in the number of enforceable disabled parking bays and their actual enforcement is to be welcomed in whichever sector it is in.

**Elaine Smith:** Good morning, Ms Baillie. Thank you for joining us. I want to take the point slightly further, because there might be some confusion about the on-going duty.

The City of Edinburgh Council has said that it has done the exercise four times. It feels that it is both labour intensive and resource intensive—it costs up to £12,000 every two years—and it is not getting many positive responses to it. The council goes on to say that it seems that, once businesses establish that they are responsible for the costs associated with the lines and signs, they decide not to proceed. Could there be a different approach? It seems to me that Edinburgh council is taking a very literal approach to the duty, whereas you say that Fife Council approaches it in a different way. Is there leeway for looking at the duty differently?

**Jackie Baillie:** My understanding of the duty, as we wrote it, is that there needs to be contact every two years. Provided that the contact is regular, frequent and on a two-year cycle, how it is done is best left to local authorities. There is undoubtedly a difference between cities and less urban local authorities, and local authorities have different scales of responsibility in that regard. However, already we hear that there is no longer any requirement for signs, that authorities are talking about painting bays and that enforcement would be undertaken by the local authority, where it has decriminalised parking, or by the police. I would have thought that being able to transfer that responsibility to somebody else would be in the interests of the private sector, so I am not sure that cost is necessarily such a barrier once businesses understand what a benefit it is to them as far as customer service is concerned.

I am not convinced that those local authorities that say that it is far too onerous are thinking creatively about it. It is a balance between the duties placed on local authorities to enhance local areas and the rights and opportunities of disabled people—I know which side I come down on.

**Elaine Smith:** On off-street private car parking, have you thought about any unintended consequences for disabled drivers? One that springs to my mind is that some of the car park operators issue fines to disabled drivers who perhaps have badges that are upside down or that are not on the dashboard because they have slipped on to the seat. Those examples come from previous constituency casework.

Another issue is the way in which councils approach on-street parking and the costs of what they have to put in place. In my area, people who have been refused blue badges have included elderly folk who are awaiting hip replacements or who have osteoarthritis or dementia. I am trying to get to the bottom of why people who should obviously be given blue badges have been refused. Is that an unintended consequence of the 2009 act? If more people have blue badges, does the 2009 act put more costs on councils to provide more disabled spaces in towns?

**Jackie Baillie:** I will deal with the last issue first, because I, too, have come across people who we would have thought would have received a blue badge, but who have not.

The 2009 act is entirely separate from the blue badge regulations, which were revised by what I think might have been a member's bill, and to which different criteria have been applied. I think that there are minimum standards across Scotland, but every local authority interprets them slightly differently. That said, if a provision has been created that says that we must have enforceable parking, it could enter somebody's mind that they do not want to administer quite so many blue badges. However, in my local authority, the departments are entirely separate, so that crossover in thinking would not happen. A blue badge would typically be issued by the social work section, whereas the enforcement and provision of disabled bays is a matter for the road section. Chinese walls operate, whether they are intended or otherwise. I have not picked up locally any consequence of the legislation for the number of blue badges, because they are dealt with separately.

On enforcement, you are right in the sense that we did not set the standards for enforcement; we simply said that, whatever regime applies, it applies in the context of the bill. If there had already been enforcement problems, they would continue. In some retail settings, I have seen enforcement carried out with a degree of vigour that probably is about having a target for the number of fixed penalty notices issued, rather than having a process of education, with enforcement if it fails. Such enforcement would likely happen in any case.

You are absolutely right that there are occasions when blue badges fall off the dashboard. In cases when supermarkets administer enforcement, they usually take the view that they will cancel those enforcement incidents because they care about the people as customers and it is a reasonable excuse to have. The supermarkets exercise that responsibility quite sensibly. The issue is about them having control.

**Andy Wightman:** You mentioned larger off-street premises, where the customer relationship often does the job. On the lack of awareness at smaller off-street premises, I think that you are not minded to have much sympathy with the councils in Edinburgh and Glasgow wanting to get rid of the duty to engage. However, what more could be done to focus on smaller premises, which I presume that disabled people visit just as often as, if not more often than, larger retail premises?

11:45

**Jackie Baillie:** You are absolutely right—the act is about access to the whole high street. In my area, the council already provides sufficient enforceable disabled bays to provide the capacity to enable disabled people to access most of the shops on my high street.

I think that the way to contact businesses is not necessarily through a letter that gets put to one side because it is not part of somebody's core business but through more meaningful engagement. That is time consuming, but lots of access panels exist across the country that are happy to do such work and which would welcome a public awareness campaign that coincided with it. It would not be beyond the Scottish Government to organise a public awareness campaign that was backed by local authorities, perhaps engaging with the Federation of Small Businesses and the Scottish Chambers of Commerce—the networks that exist out there—which could promote good practice to their members, as well as engaging with individual businesses.

About 1 million people in Scotland identify themselves as in some way disabled. When I introduced my bill, there were 230,000 blue badge holders. There is an army of people out there with a pound in their pocket who want to spend it. Businesses understand that. If we also make them understand the challenges for disabled people in accessing their shops, which are preventing those people from spending that pound in those premises, we will find that people wake up to the issue.

For me, this is an issue of disability rights and of good business. We should be taking that message out to the shops that have not yet realised that this is for them, too.

**Andy Wightman:** Your evidence suggests that the 2009 act has been quite successful in achieving its aims and that there is probably no need for any further legislation on the act's specific objectives. Other activity—such as the things that you just mentioned, the transport minister's stakeholder group and action on signage if and when there is a legislative opportunity—could all enhance the achievement of the act's objectives. However, you think that the act is doing a decent job and you are happy for it to remain on the statute book as long as it is needed.

**Jackie Baillie:** I will always bow to the committee's view on whether the act needs improvement. However, the bill was tightly defined. I was guided at the beginning—I think that it was good advice—that, if an individual member tries to bite off too much, they will not succeed, so we ignored the temptation to legislate on blue badges or on parking on pavements. That was all placed on our plate, but we said no—we stuck clearly to a focused bit of legislation that made enforceable the 85 per cent of all disabled parking bays that are advisory.

The act does not cover how enforcement is done. The perennial problem remains of whether we can enforce such things. Where are the police when you want them to enforce your disabled parking bay? Some people even debate whether there are sufficient disabled parking bays when they feel that one should be for them.

The act does not deal with any of that. The issue for me, which is worth thinking through, is about the other bits of legislation that would make the act work better. As the convener said, there may be the opportunity to adopt voluntary codes, but we need local authorities and others to embrace the approach; we can make a transformational change on the ground, but we need to keep pushing at it. It is not just a question of ticking the box and moving on.

Of course the act should be kept under review, but the issue is also about implementation. Our history is littered with not just members' bills but other bills that we have passed but which have not been implemented in quite the way that we would like. Keeping that aspect under constant review is to be welcomed.

**The Convener:** I was just looking at my notes, but I cannot find the information that I am looking for, so I apologise that I do not know the answer to my next question. I understand that local authorities have yet to make a number of on-street parking bays enforceable and that some local authorities have not started that process yet. Is it true that implementation is patchy?

**Jackie Baillie:** I understand that most local authorities have made the bays enforceable.

Typically, we ask local authorities to survey all their advisory bays and identify whether they are still needed. If the bays are still needed, the authorities need to promote one traffic regulation order to make them all enforceable.

Annual reports are produced, so we should be able to track progress. Some local authorities have moved at different speeds from others. Glasgow City Council certainly identified and had a list of all its advisory bays quite early. Other areas did not even have a list to begin with and were required to physically look for the bays.

That was the first stage of the process, which I think that the majority of local authorities have done. The process that most of them engage in now applies when a new application is made for a disabled bay. Local authorities make the bay advisory while they wait for the traffic regulation order to make it enforceable. The bulk of bays should be covered, but I am happy to search for the information and bring that back to the committee.

**The Convener:** I apologise, because I think that we have that information in front of us, but I cannot find it.

Do any local authorities have long-standing advisory bays that are yet to be subject to a TRO? That might not be the case but, if that was happening, it would be unacceptable and it would be a priority to get those bays made enforceable as soon as possible.

**Jackie Baillie:** Eight years on from the act, that would be completely unacceptable, to be frank.

**The Convener:** Let us not set that hare running. I just thought that I had heard anecdotally that that could be the case.

When a new bay is created, there is the whole issue of making it an advisory bay and then making it subject to a TRO. Do you agree that it would be good to change the regulations so that a TRO is not required to make a bay enforceable?

**Jackie Baillie:** If it was possible to do that, that would make the process much easier.

**The Convener:** Absolutely.

We seem to be all out of questions. Do you wish to make any final comments?

**Jackie Baillie:** No. I thank the convener and the committee for their courtesy. I hope that you improve the act or at least get the Scottish Government to help with its implementation.

**The Convener:** I thank you again for attending. Mr Stewart is already thinking about possible recommendations as a result of the evidence that we have heard, and the committee will certainly consider possible recommendations and contact

the Scottish Government about any ways in which the act could be enhanced—I will say “enhanced” rather than “improved”.

11:52

*Meeting continued in private until 12:08.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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