



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 2 December 2015



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**LOCAL GOVERNMENT AND REGENERATION COMMITTEE**  
**28<sup>th</sup> Meeting 2015, Session 4**

**CONVENER**

\*Kevin Stewart (Aberdeen Central) (SNP)

**DEPUTY CONVENER**

\*John Wilson (Central Scotland) (Ind)

**COMMITTEE MEMBERS**

\*George Adam (Paisley) (SNP)

\*Jayne Baxter (Mid Scotland and Fife) (Lab)

\*Cameron Buchanan (Lothian) (Con)

Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

\*Cara Hilton (Dunfermline) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Councillor Jenny Laing (Aberdeen City Council)

Derek Mackay (Minister for Transport and Islands)

Judith Proctor (Aberdeen City Health and Social Care Partnership)

Professor Tom Rye (Edinburgh Napier University)

Angela Scott (Aberdeen City Council)

Stewart Stevenson (Banffshire and Buchan Coast) (SNP) (Committee Substitute)

Sandra White (Glasgow Kelvin) (SNP)

Sharon Wood (Scottish Government)

**CLERK TO THE COMMITTEE**

David Cullum

**LOCATION**

The Adam Smith Room (CR5)



## Scottish Parliament

### Local Government and Regeneration Committee

*Wednesday 2 December 2015*

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

### Subordinate Legislation

#### Energy Performance of Buildings (Scotland) Amendment Regulations 2015 (SSI 2015/386)

**The Convener (Kevin Stewart):** Good morning and welcome to the 28th meeting in 2015 of the Local Government and Regeneration Committee. I ask everyone present to switch off mobile phones and other electronic equipment, as they affect the broadcasting system. Some committee members will consult tablets during the meeting, as we provide papers in digital format.

We have received apologies from Willie Coffey, and I welcome Stewart Stevenson who is attending in his role as a committee substitute. I also welcome Sandra White MSP, who is the member in charge of the Footway Parking and Double Parking (Scotland) Bill, which we will deal with later.

Agenda item 1 is consideration of a negative Scottish statutory instrument—the Energy Performance of Buildings (Scotland) Amendment Regulations 2015. Members will see from the clerk's note that the purpose of the regulations is to facilitate wider access to energy performance data; they will not introduce new policy or lead to any new costs. Members will note that the Delegated Powers and Law Reform Committee had no comments to make in relation to the instrument.

As members have no comments, is the committee content to agree that it has no recommendations to make to Parliament in relation to the instrument?

**Members indicated agreement.**

## Footway Parking and Double Parking (Scotland) Bill: Stage 1

10:01

**The Convener:** Agenda item 2 is evidence on the Footway Parking and Double Parking (Scotland) Bill. We have two panels giving evidence today: the Minister for Transport and Islands will give evidence first, and then we will hear from Sandra White, the member in charge of the bill.

I welcome Derek Mackay, the Minister for Transport and Islands, and Sharon Wood, policy officer in the asset management, finance and technical branch, Transport Scotland, Scottish Government.

Mr Mackay, do you wish to make an opening statement?

**The Minister for Transport and Islands (Derek Mackay):** Yes, thank you. First, I can report—for Sharon Wood's benefit as well as for the committee's benefit—that we are working on a shorter title.

Thank you for the invitation to give evidence on the Footway Parking and Double Parking (Scotland) Bill. Sandra White has undertaken commendable work to develop a bill in a subject area that we all acknowledge is complicated.

Parking is subject to various acts and regulations. This member's bill seeks to introduce clear prohibitions, while allowing for various qualifications and exceptions. Removing obstructions from our pavements to assist vulnerable groups sits well with our key strategic transport policy of improving the quality, accessibility and affordability of transport.

However, the Presiding Officer has issued a statement explaining that, in her view, the bill is outwith the legislative competence of the Scottish Parliament. That statement raised significant doubt as to whether any act flowing from the bill would be fully within the legislative competence of the Parliament.

The committee will have heard from local authorities about their concerns over operational issues, particularly in relation to enforcement. At present, only 14 out of 32 local authorities have decriminalised parking enforcement—DPE—powers, following the removal of traffic wardens from those areas in February 2014. In non-DPE areas, Police Scotland would still be responsible for enforcing the offences in the bill, as part of their wider powers in relation to enforcement of traffic offences. I am aware that a number of local authorities are considering the introduction of

DPE, and my officials will work closely with those local authorities on the development of their applications.

The committee has also heard from some members of the public who have questioned the impact of the bill on roads in built-up areas. Some roads, particularly in built-up areas, do not have the space to accommodate the footway parking proposals, with residents potentially required to park their cars some distance from their homes, which could, in turn, displace other vehicles. That could give rise to some challenging traffic management issues for roads authorities.

It is also important that we sensitively acknowledge the town regeneration policies that are in place, so as not to discourage people from shopping in their local towns because of unduly restrictive parking requirements.

Overall, new legislation in this area needs to be aimed at both achieving the aims in view and enabling Scotland's roads to continue to function effectively. Having considered the matter fully, I advise the committee that the Scottish Government supports the general principles of the bill, which align with our strategic transport policy. However, I make it clear that the Scottish Government is of the view that, should the Parliament agree to the general principles of the bill at stage 1, no further action should be taken by the Parliament on the bill until the legislative competence issues are resolved.

Following agreement with the United Kingdom Government, we are working to resolve the issues via the Scotland Bill. The intention is to introduce suitable exceptions to the list of reserved matters in schedule 5 to the Scotland Act 1998 in order to remove any doubt about legislative competence in the area. The precise form of the amendments that are required remains under discussion with the UK Government. However, it is extremely unlikely that any legislative competence alterations will be in force before the Scottish Parliament is dissolved in March 2016. Therefore, it is my strong preference that, while we work to resolve the legislative competence issues, the focus should now shift to the development of a Scottish Government bill, to be introduced in the next parliamentary session, once the legislative competence issues have been resolved. I will, of course, move more quickly if the parliamentary authorities and timetable allow, but that is the timescale that we appear to be working to.

In conclusion, I support the general principles of the bill but I am of the view that, until the legislative competence issues are resolved, no further action should be taken by the Parliament on the bill. Given the anticipated timescale, I believe that the most appropriate way forward is for the Scottish Government to progress a bill in

the next parliamentary session, although, for the time being, we will continue to support Sandra White's bill.

**The Convener:** Thank you, minister. Is the lack of legislative competence in the area the reason why there is no Scottish Government policy memorandum on the bill?

**Derek Mackay:** There should be a policy memorandum—it should have been circulated.

**Sharon Wood (Scottish Government):** The policy memorandum will be issued after this meeting. We had to get clearance for the comments that are in the memorandum.

**The Convener:** That is not particularly useful for the committee, minister. Normally, we would have the policy memorandum in front of us. Why has there been a delay? Is that down to the legislative competence issues?

**Derek Mackay:** Can I explore that and get back to you, convener? I was not aware that you were not in possession of the policy memorandum, which I have cleared.

**The Convener:** I would be extremely grateful if you would. It is always a matter of concern when the committee does not have details to hand.

You said that the Government is supportive of the general principles of the bill. Does that mean that the Government wants to see the bill go through the stage 1 process, even though it may not complete the bill process by the end of the session because we will not have legislative competence?

**Derek Mackay:** That is broadly correct. I think that it is important for Parliament to express a view. The Government is very interested in the committee's views and we are supportive of the bill because it is based on important principles that many members have tried to further. The Government is keen to progress it. If the bill were to progress now, the Government would seek to amend it to make improvements at stages 2 and 3. As it happens, we do not believe that it will make that progress because of the legislative competence issues; nevertheless, we are supportive of the principles of the bill.

As a political point, if the Parliament, through committee scrutiny and a stage 1 debate, shows support for the bill, that will line up the debate well and will ensure that whoever happens to be in government after the election—indeed, whoever happens to be in Parliament in the next session—knows that it is an important matter that should be progressed.

We are supportive of the principles, but we would do further work at stage 2, if the bill were to reach that stage. However, we are quite open

about the fact that we do not think that it will be able to make that progress because of the legislative competence issues. We can only go as fast as the Westminster parliamentary process will allow.

Does that help, convener?

**The Convener:** It helps a little. Do you think that, by moving the bill through stage 1, we might put pressure on Westminster to ensure that the legislative competence comes here so that we can deal with the issue? As you have rightly pointed out, the bill has come before the Parliament in a number of guises and the principles in it have been pursued by a number of members, and there are folk out there who are concerned that we have not been able to move on the issues.

**Derek Mackay:** That is right, convener. As you know, the Government does not share the detail of legal opinion. However, there is doubt around the bill's legislative competence—the Presiding Officer has set out a position in that regard. I have made it clear, since I was appointed as Minister for Transport and Islands a year ago, that we would work with the UK Government to resolve the issue, and the UK Government has suggested a way forward through the Scotland Bill.

There was potential for a section 30 order to be used, on which we were open-minded. We would like to move as fast as the legislative programme allows. Once we approve the bill at stage 1—assuming that we do so; it will go before the Parliament—if there is a great deal of cross-party political consensus on the matter, that will add to the pressure on the UK Government to legislate.

Even if the UK Government were to proceed in the fashion that it has suggested, with a debate followed by commencement, it appears that the work would take place after the current session of the Scottish Parliament is dissolved—it would commence by this summer. If the UK Government moves more quickly, we can respond more quickly. Officials have been in dialogue, but I have confirmed with the Secretary of State for Scotland that we are content with the approach that he will take to remove all doubt about legislative competence.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I recognise the Presiding Officer's statement that the bill as introduced is not within the Parliament's competence. It may be worth noting that, under the Parliament's processes, the Presiding Officer cannot give a further opinion on the bill. That applies to circumstances in which legislation is initially within competence but is amended at stage 2 or stage 3 and becomes no longer within competence; in this case, it would apply if the bill were to be amended to come within competence.

Given the absence of an opportunity for the Presiding Officer to revisit such a decision, does the Government have a view on how Parliament might be informed of whether an amended bill would be subsequently within competence? Quite independent of whether the powers become available or not, the issue of competence, and Parliament having a view on that, would remain.

**Derek Mackay:** I have set out a course of action that helps to address the legal issues. If we asked two or three lawyers for an opinion, we would probably get at least two or three different opinions. It is fair to say that not all legal opinion is consistent on the subject. Given that we are talking about issues relating to fines, financial penalties and—potentially—criminality, it is important that all doubt is removed.

Although opinions can be offered, the clearest way to make progress is to have absolute legislative competence beyond all doubt so that we can proceed. The UK Government and the Scottish Parliament are in the same place on the issue, and such an approach would resolve any concerns that the Presiding Officer may have.

I am sure that the legal advisers are better placed than me to discuss the issue, but I can say that, although it is perfectly competent to have the debate and for the bill to make progress through Parliament, the legislative process could ultimately not be concluded satisfactorily without that clarity being provided.

I re-emphasise—because this is the first time that it has been outlined publicly—that the Scottish Government is giving a commitment that, if we are re-elected, we will legislate in this area. I am working on a cross-party basis to flag up to all members that we need consensus in Parliament. Any incoming Government may wish to legislate in this area, which is why the stage 1 debate and the committee's work are very important. Even if we cannot proceed, we are lining up the debate well for early legislation in the next session of Parliament.

**The Convener:** Sandra White has a question. Is it on the legislative competence issue?

**Sandra White (Glasgow Kelvin) (SNP):** Yes, it is. I want to pick up on what the minister said. The group of people with whom I have spoken commissioned legal advice from two different legal firms, which said that the Parliament had competence on the matter, and I proceeded on that basis. It was a bit of a blow to get the letter from the Presiding Officer, but I was informed that there could be a challenge if the bill was not seen as competent by the Parliament's lawyers, although we had two separate pieces of legal advice that said that the bill was competent.

**The Convener:** Okay. If no one else wants to come in on the issue of legislative competence, I will bring in John Wilson.

10:15

**John Wilson (Central Scotland) (Ind):** Good morning, minister. I want to try to move the discussion on a bit and debate the bill as presented. During last week's evidence session, we heard from a representative of South Lanarkshire Council who implied that the current legislation could deal with many of the issues that the bill tries to cover. What is your opinion on that view?

**Derek Mackay:** Let me be frank: it depends on who you speak to. Some police officers would say that something was an offence, whereas others would say that the same thing was not worth pursuing. Police Scotland's position is that elements can be enforced. For example, it is already illegal to drive on the footway. It is not necessarily illegal to park on the footway, but how does the vehicle get there if it is not driven on to it?

Some areas may require clarification, and I think that clarity in the bill will resolve that. There are matters of opinion and doubts, and the bill will help to clarify them. In relation to legislation, some matters rest with Westminster and some sit more comfortably with the Scottish Parliament—of course, we would like all relevant legislation to sit with us. Sometimes it is a matter of opinion.

Not all those issues are totally resolved through the bill because there will still be exemptions and reasonableness will still be deployed—I think that that is appropriate because some of this is quite subjective. I think that the bill will give us legislative clarity that certain things are unacceptable in relation to parking on dropped kerbs, double parking and parking on the footway, which will be prohibited.

We will also need to be very clear about definitions because people's understanding of the terms "carriageway", "footway" or "pavement" and so on might be different.

The answer to Mr Wilson's question is that the bill brings more clarity to what is a complex area.

**John Wilson:** The evidence that we heard from Police Scotland last week compounded the problem. That evidence included a description of where the police would enforce parking regulations and the series of hoops that they have to go through to actually get a prosecution, whereas the witness from South Lanarkshire Council said that that council was able to take action almost immediately following the introduction of three notices.

I welcome your admission that some legislation is already in place and that this is really about how we interpret and use that. Surely using existing legislation could resolve many of the issues that the bill identifies, without the need for additional legislation.

**Derek Mackay:** No. I think that we need more focused legislation. As I indicated, I would want to refine some of the language in the bill if it were to proceed, which would bring greater clarity. In any event, we would intend to introduce guidance. To progress the matter, I would want to do more work with local authorities. I covered the issue around decriminalised parking enforcement in my opening statement. We have to address the issue of consistency across the country to provide stability and workability, and I would commission more work around that.

The bill also covers commencement and a run-in time. There are operational issues that would have to be addressed, some of which would be covered by guidance. Although there are local variations and local exemptions, we would need to do more work with local authorities and Police Scotland on the subject before implementation. I think that we are some way off from that.

**John Wilson:** I welcome your indication that you want to issue guidance to local authorities. Let me give the example that I gave last week of two towns in my own area, Motherwell and Hamilton, which sit side by side but which are in different local authority areas. North Lanarkshire does not have any traffic wardens but South Lanarkshire does. In implementing any legislation, or in any guidance that the Scottish Government issues, how do you ensure that an offence is dealt with equally across the board? At present, we have traffic wardens in one authority, but none in the other. Somebody could find themselves in a different parking regime after a five-minute drive down the road.

**Derek Mackay:** Indeed, but that matter is more for the member in charge of the bill to consider as part of the bill. I am saying that the message would have to be standardised. There would need to be an educational campaign and clarity in guidance, so that the measures could be properly enforced, but across the country enforcement would differ because there would be decriminalised parking enforcement in some areas and police action in other areas. There is also the question of the priority that a local authority attaches to enforcement. There are a lot of issues around the variability of enforcement.

We then come to the issue of our streets all being different. Are any two streets in Scotland exactly the same? Probably not. For example, what is appropriate or reasonable in relation to the size of the footway relative to the carriageway?



There is a lot to consider in how the bill would be deployed, and further work and consideration are needed before adequate guidance, based on definitions, could be published. Some variation would be acceptable in applying the legislation at the most local level, but there would also have to be a degree of consistency and fairness around reasonableness.

To assist the public, arguably there would need to be signage or some other indication to show which law was in force. Again, how that would work requires further consideration. I say again that if the bill were to proceed or if the Government were itself to legislate on the issues in it, I would need to do further work with officials from the Convention of Scottish Local Authorities and local authorities to ensure that the measures would be workable across the country. However, I am keen to express that, in principle, legislation is required.

**Cameron Buchanan (Lothian) (Con):** During oral evidence, the Society of Chief Officers of Transportation in Scotland argued that a definition of all roads with a speed limit of 30mph or less would be more appropriate. It has been suggested that the bill excludes most A and B roads. What is your opinion on that? Why would A and B roads be excluded?

**Derek Mackay:** I am afraid that that is a matter for the member in charge of the bill. As I said, I am happy to look at the detail if the bill progresses. The bill is primarily a local matter, because it covers local roads. Sandra White can explain her intent further, but the bill affects mainly residential and local areas rather than, for example strategic roads. I would not want to get into that definition other than to offer my broad support.

I think that the consultation on the bill received more responses than most other members' bills, which is a good and healthy sign, and various opinions were expressed. The definition is a matter for the member and I would be happy to return to it, but the issue that you raise is more about local roads than about strategic roads, and I will not get into definitions at this stage.

**Cameron Buchanan:** Okay. Thank you.

**Stewart Stevenson:** The minister may have ca'd the feet from under me. I was going to ask him about some of the definitions, because there are areas of the bill—I will cite three of them—where it is not clear what is meant. I will ask the member in charge about this later if I am permitted to do so.

First, it is unclear what a "vehicle" is. Section 2(1) refers to a "vehicle" but the definitions that are provided in section 7, on "Interpretation", refer only to a "motor vehicle" as defined in section 136 of the Road Traffic Regulation Act 1984. I am not sure whether the two are the same.

Secondly, it is not clear what "parking" is. There is no clear definition and no reference to other legislation.

Thirdly, it is also unclear what "stopping" is. Stopping is important, because vehicles will, in moving traffic and in congested areas, be stopping and starting all the time. It is clear, from a natural consideration of the matter, that one type of stopping is not going to be prohibited, but the position might not be clear for other types of stopping.

I wonder whether, if the Government were to pick up the bill, it would agree that further consideration might have to be given to those three—if not all—areas of definition.

**Derek Mackay:** I agree. With the best will in the world, it is clear from people's lobbying positions—in how they have written up their notes and in their correspondence—that the understanding of much of the definition varies. Therefore, if we were to proceed, we would need a common understanding of all the definitions for the reasons that members have given. I have alluded to that in my statement and in my other comments. I am sure that the solicitors would all work together to give us that common understanding, which we could then stick to.

Like many members of the committee, I was a councillor, and, although we know the difference between a footway and the roadway as it relates to the overall pavement, that difference is not necessarily understood in a consistent way. Such definitions are important to the bill's enforceability, and I would want to refine that issue if the bill were to progress. Again, those are matters for the member in charge, but I am comfortable with the principle of what the bill is trying to achieve.

**Stewart Stevenson:** Just for the record, with regard to the definition of "motor vehicle" I have a wee issue with pedestrian-controlled vehicles, particularly street-cleaning equipment, and non-motor vehicles such as four-wheeled wheelbarrows. Would they be allowed to be parked or not? There is a whole series of issues in that respect.

**Derek Mackay:** At this stage in the debate, I do not want to get into a discussion with anyone—but particularly not with Mr Stevenson—about technical definitions relating to each element of the bill. If it would assist the committee, we could produce our list of definitions as they relate to the bill, and that would perhaps form the basis of consistency. However, members are absolutely right to say that we must be clear and consistent about what we are legislating for.

**The Convener:** The committee is always glad to have what some might call Mr Stevenson's pedantry but what I will call attention to detail.

**Cara Hilton (Dunfermline) (Lab):** Good morning, minister. I am interested in the Scottish Government's view on the balance that needs to be struck between the rights of pedestrians and the rights of motorists and car owners. Last week, the committee had a lot of discussion about the provision of alternative parking for car owners who live or work in areas that would be affected by the bill. We focused particularly on council and new-build estates where there is no parking at all or where the driveways are simply not big enough and residents have no option but to park on the pavement. What is the Government's view on that situation?

**Derek Mackay:** I know of no specified formula other than the very good "Designing Streets" policy, with which I was more familiar as the Minister for Local Government and Planning. In new-build developments, there is a specified design that is more about good design than anything else, and there is no magic formula that sets out how close to their homes people should be able to park.

Nevertheless, the member is absolutely right that there is a balancing act in that respect. It is all about being reasonable. From a layperson's point of view, is it reasonable for someone to park on the footway and totally block it for other pedestrians, wheelchair users and anyone else? No, it is not. It is hard to find an excuse for someone who does that sort of thing, particularly if it has been done simply for the convenience of getting to their own domestic property.

There is, therefore, a balancing act, and much of that would be covered in guidance. If there were to be prohibitions and exemptions, the guidance would specify the areas in which such parking would or would not be acceptable, to ensure that we struck the balance that Cara Hilton has touched on. As I have said, it is about balance; after all, every street is different, which means that a reasonable approach has to be taken. There will be obvious cases of totally inappropriate parking on the footway or types of inappropriate parking that block pedestrian or other forms of access.

However, I acknowledge the point that, in some streets and in some parts of the country, it is impossible to provide alternative parking provision and the resulting displacement might compound other problems. Again, it is all about balance. I accept the member's point, but a clear message is being sent out to those who choose to park indiscriminately and unreasonably and who block access for those who have the right to walk along their footway.

Does that assist you?

**Cara Hilton:** Yes. That was very helpful. Thank you.

**The Convener:** Do you have any other questions, Cara?

**Cara Hilton:** No, convener. I am just pleased that the minister alluded to "Designing Streets", which was also mentioned last week. Does he agree that more needs to be done at the planning stage to build that type of provision into housing developments? That advice might be in place, but the new-build development that I live in has no parking, and I know that that situation is replicated right across the country.

**Derek Mackay:** I agree with the member. I have to say that the situation was fine when I was the planning minister; frankly I do not know what has happened since then. Please do not report that to Mr Neil—although he is probably watching.

**The Convener:** He might well have some questions later.

**Derek Mackay:** At the moment, such policies are a material consideration in the planning system, which is as it should be. Accessibility, active travel and pedestrian priority in the hierarchy are all principles that we would encourage. In new builds, we have to be mindful of such things. It is very hard to retrofit communities with such facilities, so we must get the balance right.

10:30

**The Convener:** Are you aware whether the planning review panel is looking at issues such as the designing of streets? I know that that is not in your portfolio.

**Derek Mackay:** I am not aware of that, but, if it is a root-and-branch review, which is how it has been described by the cabinet secretary, I am sure that it could touch upon that subject.

**The Convener:** The committee may well want to bring it to the attention of the panel. We will get to that point later.

**Sandra White:** Thank you for your comments, minister. I will pick up on Cara Hilton's point about displaced cars. If the bill were to progress, would the Government look at issuing guidance to local communities about working with access panels on where displaced cars could park when they could no longer park on the kerb?

**Derek Mackay:** The guidance would come in stages. There would be national guidance around how the policy should be implemented. As Sandra White has suggested, when those decisions were made, there would also be guidance about how the law should apply at the most local level, what streets would be affected and where exemptions might exist. Full community participation would be

absolutely vital at that point in order to get the decisions right.

It is not like setting a national speed limit or a national law that applies consistently across the country in a broad-brush approach; rather, the policy must address local circumstances, as all members appreciate. It must be appropriate, reasonable and sensitive to the local area. Reaching the right decision will need more than just a roads engineer and a planner sitting in a room, listing the streets where the policy will apply; there must also be proper community engagement, and that engagement will feature strongly in the guidance. I have a note here that says that it will be an iterative process.

**The Convener:** Minister, you said that, if the bill reached stage 2 or the Government took the proposals forward, you would lodge amendments or make changes. Can you indicate some of the areas that we have not yet covered where such amendments would be necessary?

**Derek Mackay:** Issues about workability, practicalities, terminology and driver education have been raised in the member's consultation and in the committee's evidence gathering. As the minister for transport, I would want to be reassured that all those matters had been addressed and that the proposals had been refined should the bill reach stage 2.

I would also need further engagement with local authorities. Although there is a collective opinion, concerns have been raised by individual local authorities. I would want to capture the criticisms of the bill and try to address those by refining the bill. The main areas of concern are consistency, education and reasonableness as well as the distinction between what needs to be legislated for and what would be more appropriate in guidance.

We are not at stage 2, so I do not have any amendments at the moment. However, should the bill get to stage 2, I will make comprehensive refinements to it so that there is absolute confidence in it and people will have no need to be alarmed that they suddenly cannot park anywhere near their homes. That is why we need to be a bit clearer about what exemptions there would be and what the local situation would look like.

As you would expect, convener, as a listening Government, we recognise that, if we support the bill, it should be refined in response to the outcome of your evidence-gathering sessions.

**The Convener:** What do you have to say about the bill's financial memorandum? How might that need to change, given some of the amendments that you envisage?

**Derek Mackay:** Some things are difficult to quantify. We have had experience of that before.

We do not know the extent to which the powers would be enforced at a local level or how many more local authorities might have opted for decriminalised parking enforcement in, say, two years' time. There are unknown factors and I would want a fuller understanding of those.

I know that a number of respondents have complained about a lack of resources to proceed with the measures in the bill, and I want to get a deeper understanding of that. Every year, the negotiating body for local government, COSLA, discusses finances with the Scottish Government and reaches a financial settlement. The Scottish Government's practice is to fully fund any new legislative burden on local authorities, so a discussion would have to be had on that.

**John Wilson:** Last week, disability organisations raised the issue of dropped kerbs, and one witness defined a dropped kerb as a "technical crossing point" that had been installed in streetscaping. The concern is that there does not seem to be anything in legislation or regulation to protect dropped kerbs that have been installed to allow wheelchair users and users of electric wheelchairs to cross the road. Can the Scottish Government advise or give guidance to local authorities on what streetscaping has taken place and whether dropped kerbs have been installed for access, with regard to enforcement to ensure that dropped kerbs are protected for wheelchair users?

**Derek Mackay:** I am not sure what the question is, but I get the point. If the point is that we need more work done on dropped kerbs, I agree. Some dropped kerbs have been put in by individuals and some have been put in by the local authority, and different standards have been followed. Some have been put in with very formalised and clear standards, whereas some are more ad hoc and are not of the quality that we would expect. There is a question of whether standards should be enforced, and further work needs to be done on definitions and understanding.

**The Convener:** Minister, it would have come as a bit of a surprise to some people when you said that you would support the principles of the bill at stage 1. However, you say that, if the current Government is re-elected and the competencies are devolved, you will deal with the matter at that point. What message do you have for the many campaigners out there who have had real concerns about the issue for a number of years? They have waited a fair amount of time to get a solution.

**Derek Mackay:** Thank you for giving me the opportunity to say these things. This is not a partisan point—Opposition members will understand that. The fact is that I cannot speak for the Parliament; I can only speak for the

Government. That is why I said that the Government will give a commitment to legislate on the issue in the next parliamentary session if we are unable to do so in the current session. As I have outlined, it seems unlikely that we will be able to legislate in the current session because of the parliamentary timetable. However, if we could do so, the Government would be supportive of addressing the issues that have to be addressed and would support Sandra White's bill.

I will say this for the first time publicly: if the bill cannot progress in the current session, this Government, if re-elected, will legislate, because that needs to be done. It needs to be done in a way that inspires confidence, compliance and clarity, which is why I will undertake work and commission Transport Scotland to do the necessary work and liaise with local government to improve the accessibility agenda. It is very important that we ensure fairness in our active travel priorities around walking, cycling and the accessibility agenda.

Some campaigners might be disappointed that legislation has not been passed in successive sessions of the Scottish Parliament, but never before has the Government committed to legislate on the issue if the member's bill—which we will support—fails. I have acknowledged that there are some issues with how the provisions would operate and what the guidance on definitions might look like, but, if the Parliament and the committee agree that the bill should proceed, we can make that happen. The committee will report to the chamber and we will have a stage 1 debate. If the committee agrees that the bill should proceed, I will want to see consensus and that the Parliament can work together on it. It will have the Government's absolute support.

I wish that the timescales could have been shorter, but we have been working with the UK Government to ensure that there is legislative competence. I am not criticising the UK Government; we are working in partnership to address the legislative competence issues, and legal opinion is divided on whether we could have legislated competently in the area. If it had been clear that we could have legislated, we would have been able to proceed. However, there is doubt, and, because the issues affect financial penalties and potential criminality, it is important that all doubt is removed.

I hope that we can inspire confidence that, although people may have waited a long time for the necessary legislation, the Government is supportive of the bill and wants to ensure that our footways and roadways are made even safer.

**The Convener:** Minister, on behalf of the committee, I thank you for giving evidence to us

this morning. Please ensure that we get the policy memorandum as soon as possible.

10:40

*Meeting suspended.*

10:43

*On resuming—*

**The Convener:** Moving on to the second panel of witnesses, I welcome Sandra White MSP, the member in charge of the bill, and Professor Tom Rye, director of the transport research institute at Edinburgh Napier University.

Ms White, do you want to make an opening statement following what you have heard?

**Sandra White:** I would like to make an opening statement, convener.

I thank the committee for giving me the opportunity to give evidence on what I and others think is a very important issue. I thank the many groups and individuals who have contacted me and have taken part in the consultation, with special thanks going to the clerks and staff who have worked so hard to get the bill to stage 1.

As the committee is aware of the history of the bill, I will not go into it in detail. Suffice it to say that it was started by Ross Finnie MSP in October 2010, taken up by Joe Fitzpatrick MSP in March 2012 and now lies with me. As the minister made clear, the consultation received 414 responses, one of the highest numbers for any member's bill, and 95 per cent of respondents wanted the bill to progress.

10:45

The bill's intention is not to be punitive but to provide for guidance and education. It provides for equal rights of freedom of movement, so that everyone can get on with their lives in the way that you or I can. In some cases, even fit and able-bodied people cannot get along pavements and have to go on to roads, which is very dangerous.

With regard to street furniture, which the minister mentioned and which was also mentioned in some of the evidence, I can tell the committee that, in my Glasgow Kelvin constituency, the council has put in bollards, trees and other such street furniture, but cars knock over the bollards and trees and park between the bollards. It is not possible to move about easily on the pavements. If that is the case for people such as me, just think what it must be like for elderly or infirm people, people in wheelchairs, parents with children in buggies or blind people.

I will finish by saying that the situation not only is very dangerous but can lead to isolation. As a member of the Equal Opportunities Committee, which has just had an inquiry into loneliness and isolation, I know that there is a direct correlation between people being stuck in their houses and their physical and mental health. The bill is about education and equal rights of freedom of movement for everyone in my constituency and in Scotland.

**The Convener:** You will have heard the minister's comment to the committee that it would be best to deal with stage 1 and agree the bill in principle, even if there were no further movement on it in this parliamentary session. Do you agree? Do you think that that might give some consolation to those folks who have campaigned hard to get some of the matters resolved?

**Sandra White:** I agree with moving the bill on and having the stage 1 debate in Parliament, and I note the minister's comment about the Government taking up the bill if we do not have time in the parliamentary session and things perhaps moving more quickly. I would certainly be looking for things to move more quickly, if at all possible, and for the bill to make progress. If the Government is not able to move quickly with the section 30 order and with speaking to the UK Government with regard to the Scotland Bill, I am happy to support the idea of agreeing the principles at stage 1 and picking the bill up again in the new session.

**The Convener:** Last week, the committee heard evidence and had discussion on some of the exclusions. The bill's definitions exclude most A and B roads and private roads, but from my own perspective—and I hope that folk will forgive my being slightly parochial here—Aberdeen is somewhat different, in that A roads go through the city. In fact, some of the worst footway parking problems are on A roads such as Great Northern Road in my constituency and, in Mark McDonald's constituency, the same road leading to Auchmill Road. Do you think that, in hindsight, the bill should have included A and B roads and private roads? If it moves forward, should it include those roads?

**Sandra White:** I think that they should be included. Perhaps the omission is mine, because I had assumed that A and B roads were not affected by pavement parking.

I reiterate the point made in council representations and mentioned, I think, by the minister and other members that the issue is very localised. If there are problems in certain areas, such as the A and B roads in Aberdeen, they should be looked at specifically, and I would hope that there would be amendments at stage 2 to include not only A and B roads but private roads.

**The Convener:** Okay. Does anyone else want to come in on those points or on anything else?

**John Wilson:** Just for clarification, Ms White, you have just tried to explain to the convener why A and B roads and private roads have not been included in the provisions. I know your constituency very well and the issues that it is facing, especially with the growth in the number of flats being built at the junction of Dumbarton Road and Byres Road in Partick and the parking problems that that is causing in the area. Do you think that, in hindsight, it would have been better had the bill referred to A and B roads and private roads?

**Sandra White:** As I have said to the convener, I think that, in hindsight, we should have included them. However, that kind of point is what giving evidence on the bill and having dialogue on it is all about. For example, your raising of the issue of the definition of dropped kerbs and crossing points has obviously made people think, and I think that there are definitions and other aspects that should be included in the bill.

You mentioned an issue in my Glasgow Kelvin constituency, and I know that, in reaction to problems in certain areas, Glasgow City Council introduced regulations for certain new-build flats that allowed no cars to park in the area. However, as you will appreciate, these concerns have been expressed and recommendations made by people not just in my constituency but throughout Scotland. As I have said, we are taking evidence and having dialogue on the bill to ensure that any concerns about omissions in the bill are dealt with through amendments at stage 2.

I do not know whether Professor Rye wants to add anything.

**Professor Tom Rye (Edinburgh Napier University):** I just wanted to quickly add that in the part of Britain where there is a blanket ban on footway parking—London—A roads and B roads are included like any residential or other road.

**The Convener:** How does that work in London? Does it work well?

**Professor Rye:** In the early 1990s, I worked for London Transport, which is now called Transport for London. As I was working on bus priority at the time, part of my job involved travelling around London, particularly the south-west of the city, which has some of the highest levels of car ownership in the London conurbation. However, parking on the footway is not an issue, because where it is not permitted, it does not happen—people just do not do it. That applies to A roads, B roads and unclassified roads.

At that time in London, parking enforcement on certain main roads called red routes was the

responsibility of the police, and parking enforcement in the rest of the city was decriminalised and the responsibility of civil enforcement officers—in other words, the local authority traffic wardens. However, there was no difference in the level of enforcement between the roads that were enforced by the police and the others.

**The Convener:** That is very useful. Thank you.

**Stewart Stevenson:** I want to pursue the issue of definitions. We have been talking about the definition that is relied on right at the top of the bill in section 1 and which refers to

“public roads in built-up areas”,

excluding special roads. It might be useful to include in the interpretation section a reminder of the legal definition of special roads. In essence, they are motorways, but in Scotland, they include one A road—part of the A74. However, that is just a picky, definitional point.

**The Convener:** Is that the A74(M)?

**Stewart Stevenson:** That is correct.

**The Convener:** Now I am being the pedant, Mr Stevenson, but on you go.

**Stewart Stevenson:** I am just making the point for the sake of completeness. Because the road is maintained by a different company, it is classed separately from the M74, but let us not worry about that.

I have to say that it is not clear to me from the way in which the bill is written what a “vehicle” is. The interpretation section refers to the meaning of “motor vehicle” under section 136 of the Road Traffic Regulation Act 1984 but that term, of course, covers only vehicles that are constructed for the carriage of passengers up to a maximum weight of 2,540kg. I imagine that the definition that you desire to use in the bill would be more broad reaching but would exclude, for example, pedestrian-controlled vehicles that are used for street cleaning. If the bill proceeds, do you intend to remove any doubt about what the term “motor vehicle” means by introducing a definition that makes it clear what is intended?

**The Convener:** Ms White, do you want to have a crack at that?

**Sandra White:** I will attempt to.

**The Convener:** Maybe Professor Rye can come in after you and tell us how the London legislation worked in that regard.

**Sandra White:** Stewart Stevenson always raises various issues, but, as I have said, that is what this conversation is all about.

Mr Stevenson is absolutely correct about the definition of “motor vehicle”. I have to say that I was not sure about the weight or how many people a vehicle would carry. With regard to cleansing vehicles, I must admit that, living in the merchant city in Glasgow city centre, I have never seen a cleansing vehicle parked up on a pavement. They are certainly used. We will consider the matter to see whether exemptions could be put in place.

The minister said that we would have to consider definitions before the bill went through stage 2, but, to my mind, the issue is motor vehicles that are blocking pavements, driveways and dropped kerbs so that people cannot get about. Stewart Stevenson might have seen cleansing vehicles parked up on a pavement, but I have certainly not.

**Stewart Stevenson:** You may, the next time that you walk up the Canongate in Edinburgh.

Rolls-Royce limousines, for example, exceed the 2,540kg weight limit in the definition of “motor car”, which moves them into the definition “heavy motor car” under section 136 of the 1984 act. I am just making a general point—I am not trying to bottom out the matter right now. I am sure that we would wish the definition to apply to large passenger vehicles of that character but not to exclude goods vehicles, which are covered by other definitions. There is a lack of clarity and it would be useful to have your commitment that you will take the matter up and pursue it.

**Sandra White:** I accept what Stewart Stevenson has said. I will not go into the impact of different cars; I do not have many Rolls-Royces in my area, but they do exist. I will certainly pick up on that point.

**The Convener:** There's nae many in the area that I stay in either.

Professor Rye, can you give us an indication of how London dealt with the definition?

**Professor Rye:** I do not know the details of the London legislation sufficiently to say how it dealt with the definition, but it is extremely important that the definitions of “motor vehicle”, “parking”, “waiting”, “loading” and “footway” are consistent with the existing relevant legislation that obtains in Scotland, such as the Road Traffic Regulation Act 1984.

**Stewart Stevenson:** That neatly moves us on to my second issue, which is that the bill does not directly define what “parking” is. I think that one can glimpse what is meant by “parking”, but one is uncertain in that the word “stop” or “stopping” is used in relation to parking at various points in the bill. I suggest that “parking” is probably where the vehicle has stopped and the driver is no longer in

it. That converts having been stopped to becoming parked.

However, the bill appears to catch people who stop in moving traffic, because the definitions of “parking” that are provided implicitly appear to catch that as parking, and it does not seem to be covered by the exclusions. If Sandra White agrees, it might be useful if she were to indicate that she would consider a more precise definition of “parking” to make the underpinnings of the bill more robust and to allow us to progress it.

**Sandra White:** I accept Stewart Stevenson’s point. On another point, the bill is, as the title suggests, about double parking and parking on kerbs, and if we were to go outside and ask someone what they thought when they saw a car parked on the kerb, they certainly would not say that the driver was driving along the street. The intention is not to stop cars that are on the road. I will take that point on board and think about it.

11:00

**Cameron Buchanan:** I have been to lots of community council meetings, and everyone seems to be very much in favour of the bill. However, something that people mention as much as they mention double parking, but which is not in the bill, is the prevalence of advertising boards on pavements, and I wonder whether—

**Stewart Stevenson:** I think that I heard a sharp intake of breath there.

**Cameron Buchanan:** I know, but it is an important issue for people like me, who use a motorised vehicle. When we push A boards out of the way with our vehicles, people get really ratty.

**The Convener:** Trust you to open up another can of worms, Cameron.

**Sandra White:** Cameron Buchanan has made a valid point. Local councils are responsible for street furniture. The prevalence of A boards and—when the weather is good in Scotland—tables and chairs outside cafes and pubs is an issue that I get in my postbag every other day. I have written to councils about the issue, which is to do with local planning. The bill does not address that problem and I doubt that it could be interpreted in that way, but perhaps the committee should consider the issue and take it up with councils, because, like pavement parking, it has been raised with me on numerous occasions.

**George Adam (Paisley) (SNP):** At last week’s meeting, we heard from the Scottish Disability Equality Forum, the national body for access panels. You have already mentioned access panels; indeed, some problems with dropped kerbs arise because access panels are not statutory consultees and therefore are not

consulted. A planning review is under way. Should access panels become statutory bodies to ensure that they feed in information in the way that community councils do? That might help with a lot of the problems that arise locally.

**Sandra White:** At local level, people want to have their say about the communities in which they live, and I think that it is imperative that local access panels become statutory bodies, particularly in the context of planning. I think that Cara Hilton mentioned the issue of planning earlier. Sometimes planners make building decisions without considering who lives in the area and thinking about how people with big buggies will get on and off pavements and up and down stairs, and the more that people can engage in the process, the better it is for everyone. Local access panels and community councils should have statutory status.

**Stewart Stevenson:** Further to what Cameron Buchanan said, I make the observation that section 136 of the Road Traffic Regulation Act 1984 defines “invalid carriage” as a vehicle that is adapted for the carriage of someone and does not exceed an unladen weight of 254kg. In defining “motor vehicle” in the bill, we would probably want to exclude such vehicles, although as the bill stands it is almost certainly catching them.

**The Convener:** Grand.

**Jayne Baxter (Mid Scotland and Fife) (Lab):** Professor Rye, you talked about your experience when you were working in London, where prohibition of pavement parking and enforcement stopped the problem. That is great, and it is what all of us want to see happen in Scotland.

I would like to know more about what happened. Did people go and park somewhere else? Did they stop using cars? Did households reduce the number of cars? In the real world, lots of people still need a car, more often than not; I know that lots of people do not have cars, but lots of families rely on a car to get to work and school and generally to support family life. What alternatives were found or provided in London?

**Professor Rye:** The legislation in London to which I am referring was introduced in 1974; that was well before I was working there, so I cannot really comment on how people reacted when the ban was introduced. I can say, though, that, according to the 1971 census, there were parts of London with higher levels of car ownership than there are in many parts of Scotland now. Clearly, people were able to cope, but I do not think that exactly how they coped has been documented.

I apologise if that does not fully answer your question.

**Jayne Baxter:** That is okay—and forgive me for not appreciating the timescales. I hope that I have not offended you by thinking that you were working in London in the 1970s.

It would be interesting to find out whether any research or follow-up was done at the time. It sounds as if the legislation has worked in London, and what was a very big problem—possibly an even bigger problem than what we have in Scotland—was addressed. If there are things to learn, it would be good to discover what they are.

**The Convener:** We will try and get the Scottish Parliament information centre to find out whether there is any information on that for you.

**Sandra White:** We could not find any updated evidence, but I have a paper from the House of Commons library on on-street parking in England. It highlights some cases, but I believe that they are pre-1974. We can leave that paper with the clerks. I should also say that Lord Tope, who was a councillor in the London borough of Sutton in 1974, when the pavement parking measures were introduced, made a number of comments and speeches on the subject that were favourable towards what happened. Finally, for the committee's information, Simon Hoare MP is sponsoring the Pavement Parking (Protection of Vulnerable Pedestrians) Bill, which has its second reading in the House of Commons on 4 December—this Friday—and which seeks to ban pavement parking in areas of England and Wales.

As I have said, I can leave the House of Commons library paper with the clerk. It mentions the issues that I have raised and the forthcoming debate in the House of Commons on Friday. It may be of some help to see how that goes.

**The Convener:** That would be very useful. We will get the clerks to circulate the paper to all members.

**Professor Rye:** With regard to the London situation, it is important to remember that the London legislation permits exemptions, as the bill would. One sees those exemptions signed and marked in London streets, and they allow either four wheels or two wheels of a vehicle to be parked on the footway within the marked areas.

The minister spoke of striking a balance between the needs of pedestrians and those of car owners. The way that the legislation is used in London, with exemptions being made in certain areas with very high parking pressures and real problems with street space, shows how that balance is being struck there. I would expect the same to happen here, too.

**John Wilson:** I have a follow-up point for Professor Rye. What is the impact of public transport in London? London has a number of

modes of transport—trains, the underground, buses and trams—that we do not have in many towns and cities in Scotland, and we often hear that, if there were a better public transport system, people might use their cars less to get about. Any time I go down to London and speak to friends there, they say that, on most days, they do not use a car; they use public transport to get around.

**The Convener:** But if they use their cars less, they will all be parked.

**Professor Rye:** There are two responses to that. We have to bear in mind that, when the ban was introduced in London in 1974, the areas to which I was referring that had higher levels of car ownership than many parts of Scotland have now are in outer London. Although accessibility to public transport in areas of outer London is perhaps not as poor as it is in lots of parts of Scotland, it is nothing like what one experiences in central London. In addition, the inner London public transport system has been developed to a far greater extent compared with what it was in 1974. One cannot say that the ban worked in 1974 only because London has a better public transport system or had one at the time.

**Stewart Stevenson:** I wonder whether Professor Rye could reference the statement that he has just made about higher car ownership in London. The figures that I have—and this is absolutely from memory—are 34 per 100 houses in London, 45 per 100 in Glasgow and 55 per 100 in Edinburgh. Which cities had he in mind when he talked about higher car ownership in London?

**Professor Rye:** I am talking about car ownership in London in 1971 compared with car ownership in Scotland now. The comparison—and the distinction that I am making—is between when the ban was introduced in London and when a ban might be introduced here.

**Stewart Stevenson:** That is helpful.

**Professor Rye:** That view is based on census statistics from 2011 and 1971, which I could forward to Mr Stevenson if he wishes.

**The Convener:** Thank you for your evidence this morning. There has been some discussion about the current planning review panel. Do you intend to write to the panel about some of the issues that have arisen, Ms White?

**Sandra White:** Absolutely. We have considered the role of the review panel. There are lots of things to consider with regard to not just this bill but the issues that Cameron Buchanan has raised. As a local MSP and the MSP in charge of the bill, I will be wearing two hats when I write to the panel.

If you do not mind, convener, I would like to raise one point that has not really been mentioned.



**The Convener:** Sure.

**Sandra White:** It is about clarity. The police have said that the bill will bring greater clarity. The minister mentioned resources for local councils, and we really have to bear in mind the amount of repair work that local councils have to carry out, not just to the pavements but to underground electricity cables and so on. As I have said, the proposal is not punitive, but educational. Although, in the long term, it is much more beneficial for people to get about in a way that satisfies the Human Rights Act 1998, I should point out that the measures will save councils money in the long term, too.

**The Convener:** Thank you very much. I now suspend the meeting until a quarter past 11.

11:11

*Meeting suspended.*

11:15

*On resuming—*

## **Arm's-length External Organisations**

**The Convener:** Item 3 is the continuation of our brief inquiry into the governance arrangements for arm's-length external organisations, although the inquiry has turned out to be a bit longer than we had hoped. At our second evidence session on 18 November, we took evidence from High Life Highland and Highland Council; the EDI Group and the City of Edinburgh Council; CultureNL and North Lanarkshire Council; and Bon Accord Care.

Aberdeen City Council did not attend the evidence session, and we have invited the chief executive, the council leader and the relevant council official to attend today's meeting to explain their reasons for non-attendance and to answer the questions that members were not able to put to them at the previous session. I welcome Councillor Jenny Laing, leader of Aberdeen City Council; Angela Scott, chief executive; and Judith Proctor from the health and social care integration team.

First, I want to ask you about the response to the committee's invitation and the decision not to appear before us.

**Councillor Jenny Laing (Aberdeen City Council):** I will take that question, convener.

My understanding is that the original invitation was sent to Ms Proctor and to Ms Ross, who is the chief executive of Bon Accord Care. On receipt of the invitation, Ms Proctor discussed with the chief executive whether she was the most relevant person to attend and what capacity we had in the council to send somebody to the meeting. The chief executive then spoke to me about the situation and said that she was minded to write to inform the committee that we did not feel that we had adequate capacity to send a council official at that point.

I accepted that, because we had recently discussed the capacity in our health and social care team. You may well be aware that we have been asked to take part in a joint inspection of older people's services, which will have started now, as it was due to start yesterday. We have had a fairly rigorous inspection situation in Aberdeen during the chief executive's 18-month tenure, and all group leaders across the council discussed the planned joint inspection. It was agreed that we would write to the Cabinet Secretary for Health, Wellbeing and Sport to ask whether the inspection could be delayed to allow us to concentrate on the integration agenda. The

cabinet secretary responded that she felt that the inspection had to go ahead—

**The Convener:** I will stop you there, Councillor Laing, because that inspection is a matter for the inspectors. Your communication with the cabinet secretary or anyone else is not a matter for the committee.

I am trying to get to grips with a number of issues. We are looking at the governance of ALEOs. One issue is that I received a letter, which was passed to the clerks, from Ms Scott, in which she responded on behalf of not only the council but Bon Accord Care, which is an arm's-length external organisation. I would like to know why it was felt that Aberdeen City Council could respond on behalf of Bon Accord Care, given that the latter is an ALEO.

**Councillor Laing:** I was putting that in context, because you asked why the council had made the decision not to send anybody. It is right that we put that in the context of the discussions that I had with the chief executive, which were predicated on previous issues with capacity. I was happy for the chief executive to write on that basis, and the chief executive is best placed to answer the question about the content of her letter. The first time I realised that there was an issue was when I was contacted by a journalist asking whether I would be attending the committee today, which was the committee's decision. Perhaps the chief executive is best placed to cover that aspect.

**The Convener:** Mrs Scott, can you tell us about the letter, which was a response from you, as the chief executive of the council, and Bon Accord Care?

**Angela Scott (Aberdeen City Council):** I had a discussion with Sandra Ross, the managing director of Bon Accord, about the capacity issues that Councillor Laing has addressed. We reached the conclusion that neither of us had the capacity to support the inquiry, and the MD of Bon Accord was content for me to write a response on behalf of both organisations.

**The Convener:** In terms of the governance issues, it was felt okay for the council to respond on behalf of an arm's-length organisation.

**Angela Scott:** With the permission of the MD.

**The Convener:** I understand that, after we received that letter, the clerks phoned Ms Proctor on at least two occasions and your own office, Mrs Scott, on two occasions to discuss the invitation to appear but did not manage to elicit any responses.

**Judith Proctor (Aberdeen City Council):** I spoke to the clerk to the committee, Mr Cullum.

**The Convener:** Okay. Fine.

Let us move on to the governance of Bon Accord Care and Aberdeen City Council's position in relation to that. Which committee or committees of the council does Bon Accord report to on its work?

**Angela Scott:** It reports to two committees of the council: the audit, risk and scrutiny committee and the education and children's services committee. There is also a requirement for an annual report to go to the full council.

**The Convener:** In her evidence last week, Mrs Ross seemed to indicate that her main point of contact is the ALEO hub, which she said—if I remember correctly—she reports to four times a year. Is that correct?

**Angela Scott:** Her main point of contact is the commissioner of the service, which is currently the head of older people's care. The ALEO hub includes the lead commissioner of the service as well as representatives from finance, procurement and HR and legal representation from across the council's corporate governance directorate.

**The Convener:** During the interlude, I have had the time to look at the papers that the committee has received from Aberdeen City Council. The report of the audit, risk and scrutiny committee of 25 June 2015, which is entitled "ALEO Governance—Outstanding issues", includes the recommendations

"(a) to put in place consistent reporting arrangements for the scrutiny of ALEOs and (b) to ensure that ALEOs established risk management processes and frameworks".

The report also states that the ALEO governance hub's performance was "not consistent". The same report went to the education and children's services committee on 3 September 2015. Are those the two main committees that deal with these matters?

**Angela Scott:** Yes. That happens in addition to the council receiving an annual report from Bon Accord and an annual report from the chief social work officer.

**The Convener:** How often do reports from ALEOs such as Bon Accord Care—not from the ALEO governance hub—go to the audit, risk and scrutiny committee and the education and children's services committee?

**Angela Scott:** We have given a commitment that the minute from each ALEO hub meeting will be submitted to the audit committee in order for that committee to scrutinise the minute further.

**The Convener:** According to the report, the ALEO governance hub meets only biannually. Is that correct?

**Angela Scott:** To date, but Audit Scotland recommends that we consider increasing that to four times a year.

**George Adam:** When I was a councillor, I was on an arm's-length external organisation. I do not know Bon Accord Care, so can I ask a couple of daft-boy questions to start off with? What is the make-up of the governance board of Bon Accord Care?

**Judith Proctor:** The board is made up of a chair and four non-executive directors.

**George Adam:** Are there no councillors on the board?

**Angela Scott:** Not as part of the board. The managing director and finance director of Bon Accord Care are also members of the board. The council decided not to place any elected members on the board.

**George Adam:** Is that not highly unusual for an ALEO? Is it not normal to give ALEOs democratic accountability by having elected members on the board?

**Angela Scott:** It varies across our ALEOs. I was not in the council when it made that decision, but my understanding is that there was concern about a conflict of interest with the council's code of conduct. It was also, in part, about the expertise required. My understanding is that the four non-executives who have been appointed to the board of Bon Accord Care were all recruited, through the public appointments process, based on their relevant skills and experience.

**George Adam:** Although there has been talk of conflicts of interest for councillors in ALEOs, councillors tend to be told in no uncertain terms that they are there as a representative of the ALEO. Are you saying that councillors at Aberdeen City Council do not have the skill set to be on the board?

**Angela Scott:** I am not saying that.

**Councillor Laing:** It was decided by councillors that we would not have councillors on the board. As the chief executive said, she was not there when the decision was taken. It was felt that it would be best if we had people with the correct skill set. Councillors from the administration were involved in the selection process; opposition councillors chose not to take part.

**George Adam:** That seems to have been a bizarre decision from the point of view of democratic accountability. You normally get a good mix on a board of elected members and people who have the experience that you are talking about. Although I do not have the numbers in front of me, the scenario here seems strange

when compared to the position at other ALEOs throughout the country.

**Councillor Laing:** I would not dispute that a different approach was taken, but it was done democratically and for—

**George Adam:** One person's different approach is another person's strange approach.

You said that you went through a selection process. Where are the board members from? Are they local to the north-east? Are they people who have worked in the area their whole lives or are knowledgeable about the area?

**Angela Scott:** I cannot answer that. I do not have that information.

**George Adam:** You do not know—

**Angela Scott:** I do not know whether they reside in Aberdeen.

**The Convener:** Thank you. We can follow up on that.

**John Wilson:** Just to follow up on the questions about democratic accountability, we have just heard that Bon Accord does not have any elected members on its board and that councillors are not involved in discussions in the board. How does Aberdeen City Council ensure that Bon Accord is held to account for the services that it delivers and for the public money that it receives from Aberdeen City Council?

11:30

**Judith Proctor:** The process has been described in terms of the governance of the organisation through the ALEO hub, the annual report to full council and the ALEO hub reporting to the various committees of the council. In addition to that, we have regular reports from Bon Accord Care, setting out its performance and delivery against its key performance indicators. We get weekly statistics about what is being delivered, the number of service users, information about on-going complaints, and comments and compliments that they receive. I attend the board meetings, or one of my senior managers does, and we are also in regular contact through our contracts and commissioning team about delivery against the contract.

**John Wilson:** Can you clarify the capacity in which you or your representative attend the board meeting?

**Judith Proctor:** I attend as an observer, not as a member of the board.

**John Wilson:** Do you have full speaking rights at the board meeting?

**Judith Proctor:** Yes.

**John Wilson:** Do you have voting rights?

**Judith Proctor:** I do not vote.

**John Wilson:** You have indicated that the ALEO hub provides weekly statistics to you.

**Judith Proctor:** Bon Accord Care provides weekly statistics to us, not the ALEO hub.

**John Wilson:** Explain the difference between the ALEO hub and Bon Accord Care.

**Angela Scott:** Shall I do that? John Wilson's first question was about holding to account. From a governance perspective—

**John Wilson:** It was about holding to account from the perspective of a democratically elected member.

**Angela Scott:** Absolutely. What are we holding Bon Accord Care to account for? It is its management of risk and performance.

The ALEO hub has been designed to have the capability to look at systems of risk management on behalf of the audit committee. The audit committee is a primary, democratic committee in the council. A primary function of the audit committee is to look at systems of risk management. The ALEO hub gives a view to the audit committee about the system of risk management that Bon Accord Care has in place.

The ALEO hub, supported by the commissioning team, also scrutinises the performance of Bon Accord Care, and reports are submitted to the audit and service committees of the council. The hub provides those two committees with evidence about the management of risk and performance.

In addition, the internal audit function has been commissioned to look at the ALEOs, which it does in rotation because of the number ALEOs that the council has. The findings of that internal audit are submitted to the audit and service committees. The Care Inspectorate, as an external assurance body, is providing assurance as well—its reports are submitted to the service committee. The council's two primary service committees are provided with information that allows them to hold Bon Accord Care to account.

The ALEO hub is largely populated by officers who have appropriate expertise. We have a finance lead, a human resources lead, a risk lead, a legal lead, and the commissioning from there. All the information is triangulated; it is all joined together and tells a cohesive story about the performance of that organisation. That information is presented to the relevant committees, on which the elected members sit.

**The Convener:** Is the hub “largely” populated by officers, or is it exclusively populated by officers?

**Angela Scott:** To date, as we have been creating the ALEO hub, it has comprised officers. That is consistent with my understanding of the recommendation to create a stakeholder group. It said that the stakeholder group should comprise officers, commissioners and elected members. The complexity—

**The Convener:** At this moment it only has officers.

**Angela Scott:** At this point they are all officers, but the reports are submitted to the council's committees.

**John Wilson:** Thank you, convener, for that follow-up question. That is where I was going to take my questioning as well. It seems surprising to someone like me, who has been an elected member, as I have declared in the past. It sounds as though the information is provided to the ALEO hub, and then the ALEO hub, which is made up of officers and commissioning officers, sifts the information before it is provided to the democratically elected members of the council for them to read in the reports that are delivered from the ALEO hub. Is that the situation?

**Angela Scott:** There are three layers of assurance on any issue in the council, whether it is the arm's-length structure or our primary services. I provide assurance through three levels: management assurance, internal assurance through internal audit, and external assurance. We are being very consistent in the ALEOs; the ALEOs provide the management assurance, the council commissions its own internal audit to provide internal assurance, and there is the external Care Inspectorate assurance. That is wholly consistent with the assurance that we provide on all other service activity across the council.

**John Wilson:** One of the explanations that we have been given for the establishment of ALEOs by local authorities is that they reduce costs. We have heard that services are delivered in that way because the charitable arrangements that can be set up can produce cost savings.

I am interested to find out the costs of the additional systems that have been put in place—particularly by Aberdeen City Council, given that we are looking at it and you have the ALEO hub—to monitor the delivery of services. The general argument is that setting up ALEOs brings local authorities better value for the public pound, but complicated monitoring systems are being set up that involve senior staff in councils monitoring service delivery. Were the same monitoring

systems in place before the services were transferred to ALEOs?

**Angela Scott:** I will attempt to answer that. All that I can explain is how I want our group structure to operate under my watch. It is complex, but that is the nature of service delivery in local government.

I have four tier 1 ALEOs and a volume of tier 2 ALEOs, which are smaller. In addition, I will have the integration joint board. In the midst of all that, I need to ensure that the scrutiny arrangements support that.

On the ALEO hub, a clear business case was submitted to the council that set out, as you described, a number of expected benefits. The initial objective for me, in getting the ALEO hub created, was to ensure that we provided that assurance back into the democratic system in the way that you described. That was objective number 1 for me. I had also inherited a number of ALEOs in my group structure and I wanted to ensure that we were consistent in our scrutiny of all the ALEOs, which are quite extensive in the council's area. I was not persuaded that we had that in place.

My primary objective has been to get the ALEO hub set up and functioning for both the tier 1 and tier 2 ALEOs. The second objective is to go back to the business case that was provided to the council and ensure that we are tracking the benefits that were set out in it, based on which the council decided to move to an ALEO structure. There has to be a workstream and a focus in the ALEO hub to ensure that we track the benefits that we set out to the council to support that. To move into that space is the next phase of the ALEO hub.

**John Wilson:** Thank you for that explanation, but my initial point was that ALEOs are supposed to have been established to save local authorities money and increase value from the public pound. My understanding is that, under the previous system, before ALEOs were set up, the delivery of a service was the responsibility of the head of the service. They reported to a director, who reported to the relevant council committees on the performance and delivery of the service.

I am concerned that it sounds as if the ALEO hub that you described has set up a whole new structure to monitor the delivery of services by ALEOs. As it has been described, the hub sifts or filters the information, which then goes before elected members at the council's audit, risk and scrutiny committee or other committees or at the full council. That is what happens in reporting on the delivery of services. How has that been costed as part of the council's good practice to save the public pound by transferring services to ALEOs?

**Angela Scott:** The ALEO hub is not a different structure. It largely comprises officials and officers in the corporate governance directorate, whose primary role is to support the organisation's governance.

Back when the services involved were in house, finance, legal and HR colleagues supported the scrutiny and challenge of the services. There is a strength in the approach that we are devising through the ALEO hub, which I would like to see spread to allow for deeper scrutiny of the services that are in the council. The strength of the ALEO hub is that we can now join together to triangulate all the information. We are no longer looking at performance through one lens; we are looking at the outcomes that are being achieved versus the financial performance versus the staff issues that are coming. There is a strength in bringing all of that together.

There is no additional cost to the council in having created the ALEO hub. There will simply be a quarterly meeting, led by our director of corporate governance, where officers bring all the information that is coming into the council from Bon Accord Care and scrutinise that information. No additional cost is associated with the ALEO hub.

I guess that the second part of your question is about the cost of setting up Bon Accord Care and it having its own management structure. I do not know whether Ms Ross got into any of the details, but a management structure has been put in place to support that, which entails a cost; that was a cost when the service was in house, as well. I am not sure what more I can add to answer your question.

**Jayne Baxter:** I will ask about performance. It sounds as if you have structures in place to gather and examine a lot of performance information. Has the council ever had to take action because of concerns about performance? Have there ever had to be sanctions or a withdrawal of contracts? Are you satisfied that performance is good and will continue to improve?

**Judith Proctor:** Is the question specific to Bon Accord Care or about ALEOs more generally?

**Jayne Baxter:** Let us make it about Bon Accord Care, because that is what we talked about last time.

**Judith Proctor:** We have applied no sanctions.

**Jayne Baxter:** I will ask you the same question as I asked everybody else the last time, just to be consistent. Does Bon Accord Care pay the living wage?

**Judith Proctor:** Yes.

**Jayne Baxter:** Is it fully funded through the council to do that?

**Judith Proctor:** Yes.

**John Wilson:** I go back to the first question that Jayne Baxter raised. We have been concentrating on Bon Accord Care. Has Aberdeen City Council withheld funding on any occasion from any of the ALEOs that are currently under its funding regime?

**Councillor Laing:** We indicated that in our survey response, but the ALEO in question was not Bon Accord Care—it was one of our other ALEOs.

**John Wilson:** I am widening out the question because I want to examine what the suspension of funding to an ALEO entails.

**Councillor Laing:** Funding was delayed, because the ALEO had not produced the business plan that we expected. It was given additional time in which to do that.

**John Wilson:** It was delayed funding because additional time was required to produce a business plan, but what were the practical implications in relation to the funding that was to be provided? I understand that the overwhelming majority of the funding that any ALEO would receive from a local authority would be for staff costs. If you delayed funding to an ALEO, did that have any implications for the staff who were being paid by that ALEO?

**Councillor Laing:** I am not aware that it did, because the delay was short.

**John Wilson:** What was the delay?

**Councillor Laing:** It was a couple of weeks.

**John Wilson:** Were there no financial issues with that ALEO in relation to non-payment?

**Councillor Laing:** I am not aware of any.

**John Wilson:** I would be grateful if you could check that out, because I am keen to know whether, if local authorities are minded to take action against ALEOs by withholding funding, that could have a knock-on effect on operational delivery of the services by those ALEOs.

**Councillor Laing:** I accept that and we can check that. I would like to point out that that situation occurred before we had the governance hub, and it has not happened since then.

**The Convener:** I will return to Bon Accord Care. I have looked at the information from the audit, risk and scrutiny committee and the education and children's services committee and nowhere could I find key performance indicators. How do elected members get the key performance indicators on

Bon Accord Care's delivery of service to some of the most vulnerable folk in the city?

11:45

**Judith Proctor:** Elected members will do that through the annual report that Bon Accord Care provides.

**The Convener:** So you are saying that the only opportunity for elected members to scrutinise the key performance indicators is through the annual report and the questioning session on it.

**Judith Proctor:** The ALEO hub also looks at areas of high risk and at the risk register of the care provider.

**The Convener:** I am asking about scrutiny by elected members, not scrutiny by the ALEO hub. Are you saying to me that, as things stand, the only occasion on which elected members can look at key performance indicators on the delivery of care by Bon Accord Care is at the time of the annual report? Is that correct?

**Judith Proctor:** That is correct. The same is true in relation to all our external providers.

**The Convener:** I understand the situation with regard to other external providers but, in the context of Bon Accord Care, we are talking about some very vulnerable people, who are often at great risk. If I was an elected member in an authority in which an ALEO was dealing with care, I would want to look at key performance indicators much more regularly. After all, the buck stops with the elected members. As things stand, that happens only once a year.

**Judith Proctor:** All our providers provide services to people who are vulnerable. Our performance as a social work department against key performance indicators with regard to vulnerable people is reported regularly to the education and children's services committee, which is the parent committee for adult services, and that will continue until such time as the integration joint board goes live in April 2016.

**The Convener:** I looked at the agenda for the education and children's services committee's meeting on 3 September 2015. All that is given there on adult care is the same minute of the meeting of the ALEO governance hub as went to the audit, risk and scrutiny committee, and the adult services performance report, which provides no key performance indicators at all. When was the last time that key performance indicators on social care aspects were reported to a committee of the council?

**Judith Proctor:** The performance report that goes to committee contains the KPIs for social care.

**The Convener:** So the very brief set of graphs in the performance report is the KPIs that go to the committee. Is that it?

**Judith Proctor:** Those are the performance indicators for adult social care.

**Angela Scott:** That is just in recognition of the fact that there are a load of other commissioned bodies that the council uses. The report to council reflects the totality of the outcomes that we achieve from all our providers, one of which is Bon Accord Care.

**The Convener:** The objectives that are listed at the beginning of the adult services performance report are:

"People at risk are protected ... People are effectively supported within their families and communities ... People fully participate in individual and service planning, review and delivery ... Wellbeing is promoted in all care groups ... Our resources are managed effectively ... Our organisation is effective."

Do the KPIs and the minute of the meeting of the ALEO governance hub allow you to adhere to the principles of scrutiny and ensure that those things are happening?

**Councillor Laing:** I am sorry—can you repeat the question?

**The Convener:** Absolutely. I will go right back to the start. It is stated at the beginning of the adult services performance report that the objectives are to ensure that

"People at risk are protected ... People are effectively supported within their families and communities ... People fully participate in individual and service planning, review and delivery ... Wellbeing is promoted in all care groups ... Our resources are managed effectively ... Our organisation is effective."

Do the minutes from the ALEO governance hub and the brief report on the KPIs actually allow elected members to scrutinise properly to ensure that the objectives are being achieved in the service delivery by Bon Accord Care?

**Councillor Laing:** It is up to the members of a committee, if they are unhappy with the reports that they get, to instruct officers to bring additional information.

As far as the KPIs go, we have talked about the committees that deal with the ALEOs. We have heard from Ms Proctor and Mrs Scott that we report to committees on the performance of all the services that the council provides in that regard, and that would be no different if we were operating without an ALEO. The reporting of information would be the same, apart from the fact that we would not have the governance hub, and the information probably would not appear in front of the audit, risk and scrutiny committee but would just come to the service committees. Therefore,

we probably have a couple of layers of governance that we would not have if the services were provided directly by the council rather than by an ALEO.

My understanding is that we have reported such information for a considerable time. If elected members required additional information, it would be up to them to request that.

**The Convener:** So you have more layers than you had previously, which follows on from what Mr Wilson said. However, the information that is given to councillors seems to be much less than the performance indicators that were given to councillors when I was a member of Aberdeen City Council.

**Councillor Laing:** We would have to look back at the record on that.

Another aspect is that the convener and the vice convener of the audit, risk and scrutiny committee are opposition members. Therefore, I would have thought that, if there was unhappiness among elected members, that would be brought to the fore there—

**The Convener:** In terms of—

**Councillor Laing:** —and also at the service committee.

**The Convener:** I am sorry, but I am speaking now, Councillor Laing.

In terms of the social care and wellbeing objectives—I have read them out, so I will not read them again—I would have thought that a body other than the audit, scrutiny and risk committee would look at that. At the moment, that seems to be the education and children's services committee but, from what I can see, there is not much information there.

I want to move on to savings. Other witnesses have given evidence on the expected savings from moving to ALEOs, from things such as non-domestic rates and VAT. How much saving has Aberdeen City Council made from moving from an in-house service to the ALEO Bon Accord Care?

**Judith Proctor:** The business case that went to Aberdeen City Council indicated savings within five years. Obviously, we are just 18 months into the operation of Bon Accord Care.

**The Convener:** So what is the saving thus far?

**Judith Proctor:** We are not looking at savings year on year; we are looking at them within the broad delivery of that five-year plan.

**The Convener:** Is it correct that, as the shift took place, the budget from the council to Bon Accord Care for the first year was £23 million or thereby?

**Councillor Laing:** Convener, can I have clarification about the remit? Are we entering into an investigation into Bon Accord Care?

**The Convener:** No. It is an investigation into arm's-length external organisations.

**Councillor Laing:** A business case was put forward and was agreed by the council. I take on board the point that ALEOs are set up to make savings, but that was not the whole point of the business case that came before us. There were various other aspects. We can send it to committee members so that they can see—

**The Convener:** We would—

**Councillor Laing:** —the reasoning behind that. However—

**The Convener:** We would appreciate that, Councillor Laing. With all the folk who have come in front of us on the issue, we have tried to establish whether any savings have been made by moving from an in-house service to an ALEO. Most folks have been able to point that out.

The interlude has given some of us time to look at other issues round that. You can set the record straight by writing to us, but my understanding was that the original budget was £23 million, which was raised to £24 million. It has now risen to £25.5 million and I think that it will rise further to £26.4 million. That is quite an uplift. However, it seems that a much higher percentage of delivery of service is going to providers other than Bon Accord Care. Is that the case? Would you prefer to write to us about that?

**Councillor Laing:** I have a point of clarification about the increases. I was asked earlier whether we pay the living wage. When we set up Bon Accord Care, it was important to us that staff terms and conditions were the same as if the services had remained in house. As a result, pay has increased, which has led to increased amounts going to Bon Accord Care because of the terms and conditions and levels of service.

We need to bear that in mind. Perhaps it would be best if we wrote to the committee so that you have an understanding of where the amounts have come from.

**The Convener:** That would be extremely useful. Could you also write to the committee about the external income aspect of the business case? Am I correct in saying that the business case was largely predicated on bringing in additional income?

**Councillor Laing:** Part of it was about the right to trade and reinvest. That was in the business case, yes.

**The Convener:** My understanding is that that will reach £100,000 in 2019. Perhaps you can also clarify that for us in writing.

**Councillor Laing:** I take it that it is just Bon Accord Care that you want clarification on and not any of the other ALEOs that we deal with.

**The Convener:** We are just dealing with Bon Accord Care. We were trying to match one ALEO with one council when we set out on the inquiry.

**John Wilson:** When we took evidence from Ms Ross, she was asked about the pension liabilities of Bon Accord Care and she admitted on the record that it was admitted to the pension scheme. She indicated that the pension deficit had increased during the operational period of the past 18 months to two years. If anything happened to Bon Accord Care, I assume that the council would take the services back in house.

Do you monitor the liabilities of any of the ALEOs in case the council has to step in and deliver the services if, for whatever reason, the ALEO's funding is withdrawn or its board feels that it can no longer operate?

**Angela Scott:** The contract allows the council to intervene in the event of any significant failure in Bon Accord Care and to bring the services back in house. If anything happened, we would of course do that.

My understanding of the contract is that we would honour the pension liability. There is a whole set of governance that sits around the north-east pension fund and Bon Accord Care has been admitted into that pension fund.

We look at all the council's financial exposure, whether it is a consequence of pension deficit or of giving guarantees to any organisation. Our role under section 95 of the Local Government Act 1973 is to monitor constantly the council's exposure to those things that are clearly on the balance sheet as well as to those things on which we have given guarantees.

12:00

**John Wilson:** I assume that that includes any ALEOs that operate under the funding regime from the city council.

**Angela Scott:** Yes.

**The Convener:** The other ALEOs that we have looked at were carefully selected to include a cultural ALEO, a leisure ALEO and a property ALEO. Bon Accord Care is slightly different, given the care service aspect, particularly with regard to health and social care integration.

How will that be dealt with? Was integration written into the original contract? Will it be



achievable to complete integration with an ALEO dealing with care services?

**Judith Proctor:** I am not sure that I fully understand your question, convener.

**The Convener:** You are moving to health and social care integration. I think, if memory serves me well, that Bon Accord Care would account for about 10 per cent of your joint integration budget. Is that right?

**Judith Proctor:** Yes—it would be around that amount.

**The Convener:** Has the contract been set out so that directing Bon Accord Care to fulfil all the integration that will be required between the health and care services will cause no difficulty whatsoever? With regard to fitting everything together, including governance, how is that going to work?

**Judith Proctor:** We are on line to achieve everything that we need to achieve in order to go live as a partnership by the required date of 1 April next year. Bon Accord Care is a key delivery partner in what we are doing. It currently delivers services on behalf of Aberdeen City Council, and it will do so under the direction of the integrated joint board in future. We are doing some work within our organisation on looking at contractual assurance so that we are very clear about the contractual obligations to Bon Accord Care that sit between the IJB and Aberdeen City Council.

**The Convener:** Do you think that you have the flexibility in the contract to be able to fulfil all aspects of integration with Bon Accord Care still in place?

**Judith Proctor:** Our delivery of integration is not contingent on the Bon Accord Care contract.

**The Convener:** Okay. It has been suggested to me that certain things were transferred to Bon Accord Care and certain things were left in house. Some things were split between Bon Accord Care and Aberdeen City Council. Would that be correct?

**Judith Proctor:** I was not working in Aberdeen at the time that the decision was made on which services would be given to Bon Accord Care, so I am not entirely sure which services would have been split.

**The Convener:** Where does occupational therapy lie at present? Is it between the council and Bon Accord Care?

**Judith Proctor:** Occupational therapy sits across Bon Accord Care; aspects of occupational therapy are delivered within that. We have some occupational therapists who work within the wellbeing team, and we also provide occupational therapy through the national health service.

**The Convener:** It has been suggested that, at present, some folk have three OTs and some folk have zero OTs. Is that the case? How can the ALEO contract be dealt with to ensure that folk get an OT each rather than three OTs, as may be the case at present? Is that a flaw in the contract, or just a flaw in the system at this moment in time?

**Judith Proctor:** I would certainly be very interested to see evidence that people have more OTs than they require.

**The Convener:** I can provide you with that.

**Judith Proctor:** That would be helpful. Obviously we would be looking to set up services so that people have the services that they require from the right person.

**The Convener:** Okay. Thank you very much for your evidence today. We have asked for a number of details—there may be more—and we would appreciate a reply in writing.

We now move into private session.

12:04

*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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