



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 5 October 2016

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 5 October 2016

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
7th Meeting 2016, Session 5

CONVENER

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

DEPUTY CONVENER

*Elaine Smith (Central Scotland) (Lab)

COMMITTEE MEMBERS

*Kenneth Gibson (Cunninghame North) (SNP)

*Ruth Maguire (Cunninghame South) (SNP)

*Graham Simpson (Central Scotland) (Con)

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

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Laura Cregan (Local Government Boundary Commission for Scotland)

Isabel Drummond-Murray (Local Government Boundary Commission for Scotland)

Iain Gray (East Lothian) (Lab)

Professor Ailsa Henderson (Local Government Boundary Commission for Scotland)

Derek Mackay (Cabinet Secretary for Finance and the Constitution)

CLERK TO THE COMMITTEE

Jane Williams

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Local Government and Communities Committee

Wednesday 5 October 2016

[The Convener opened the meeting in private at 09:47]

10:01

Meeting continued in public.

Local Government Boundary Commission for Scotland's Fifth Electoral Reviews

The Convener (Bob Doris): Good morning and welcome to the seventh meeting of the Local Government and Communities Committee in session 5. I remind everyone present to turn off mobile phones. Meeting papers are provided in digital format, so you may see members using tablets during the meeting. That is our general appeal at the start of every meeting—we promise that that is why you will see us looking at our phones and tablets.

No apologies have been received. Yet again, we have a full house—good stuff, MSPs.

Agenda item 1 was taken in private. Agenda item 2 is on the Local Government Boundary Commission for Scotland's fifth electoral reviews. The committee will take evidence on the reviews and on the Scottish Government's response to them. I welcome Professor Ailsa Henderson, commissioner, Isabel Drummond-Murray, secretary, and Laura Cregan from the commission's secretariat.

I also welcome Iain Gray MSP, who has taken the time to come along this morning. Iain has some scrutiny questions that he would like to ask, and I intend to bring him in towards the end. We have a fairly tight hour for questions, so I intend to leave a bit of time at the end, no matter how furiously we are asking questions, to ensure that Iain gets a bit of time to ask the questions that he wants to ask.

Good morning, commissioner, and thank you very much for coming. I invite you to make any brief opening remarks that you may have. We will follow that with our questions.

Professor Ailsa Henderson (Local Government Boundary Commission for Scotland): Thank you for the invitation to be here today. The Local Government Boundary

Commission for Scotland's responsibility is to make recommendations to Scottish ministers that comply with the statutory requirements placed upon us. The rules under which we work are set out in the Local Government (Scotland) Act 1973. They require us to identify boundaries in

"the interests of effective and convenient local government".

The rules require us to pay attention to electoral parity above all other things but, subject to that, we have regard to local ties, easily identifiable boundaries and special geographic circumstances.

The fifth reviews are the first time that councillor numbers and wards have been examined together since the third reviews almost 20 years ago. That is because the fourth reviews, which resulted in the introduction of multimember wards for the single transferable vote, did not revise councillor numbers. Given the changes in population across Scotland and within council areas, changed boundaries were inevitable.

Against that background, the commission considered it right to take a fundamental look at how best to conduct a full review of councillor numbers and wards, which included examining the methodology that we used. The commission had consulted previously, in 2011, on how councillor numbers might be determined, and the outcomes from that showed support for a consistent Scotland-wide methodology, a call for more equal representation across Scotland and a call for fewer categories of councils. It was suggested that we continue to use a measure of rurality, but also that we consider the use of deprivation.

We believe that the methodology that we have introduced is robust. We have reduced the number of categories from seven to five and we have changed the indicators that we use to better reflect the indicators that are currently in use by the Scottish Government. That includes the proportion of a council area's population living in settlements of 3,000 or more, as well as the Scottish index of multiple deprivation, which is a basket of measures covering the socioeconomic and geographic circumstances in a council area.

We have also reduced the range of ratios of electors to councillors and made them more equal. We have amended the minimum and maximum council size: it used to run from 18 to 80, but it now runs from 18 to 85. To minimise disruption, we have also implemented a cap on the change in councillor numbers in any council area to 10 per cent.

It is a statutory requirement for us to consult local councils and the public. We have done so in two stages, the first of which was on councillor numbers and the second on ward design. There is no single correct way to determine how many

councillors are needed for Scotland as a whole or for a particular council. If we have a statutory duty to consider electoral parity above all else, we believe that we have fulfilled our statutory responsibilities and that the final outcomes of the reviews deliver an improved electoral position. The reduced range of ratios means that there is less variation in the value of one vote across Scotland. We have lower levels of deviation from parity in the aggregate, which means that representation of the electorate is more evenly shared. Specifically, more wards are within 10 per cent of parity, which means that there is less variation in the value of each vote within a council area. Furthermore, fewer electors will be underrepresented by 10 per cent or more relative to the council average.

We have complied with the legislative requirements in letter and spirit. We have prioritised parity and consulted widely—indeed, we extended consultation periods when we were able to do so. We have been responsive to the 2011 consultation on methodology and to suggestions for boundaries and we have made significant changes to boundaries where we felt that the suggestions from councils and the public offered improvements. On outcomes, we believe that we have produced solutions that produce greater equality and less underrepresentation.

We are happy to take your questions and to follow them up in writing if that would be more useful.

The Convener: Thank you very much.

Ruth Maguire (Cunninghame South) (SNP): Good morning, Professor Henderson. My question concerns the 10 per cent cap that you used for changes. How did you decide on 10 per cent as the magic number that would not cause disruption or that would cause the minimum of disruption?

Professor Henderson: The 10 per cent figure surfaces twice. It surfaces because we use the Venice commission guide on variation from parity of 10 per cent and there is a separate 10 per cent figure for the cap. We felt that, given the range of council areas, 10 per cent would get us to whole numbers a lot better. We were also following best practice in other commissions, were we not, Laura?

Laura Cregan (Local Government Boundary Commission for Scotland): Yes. I believe that it is the practice in the Local Democracy and Boundary Commission for Wales.

Professor Henderson: It uses 10 per cent as well.

Ruth Maguire: Do we have examples of where greater changes would have been needed? The figure feels a bit arbitrary but you said that it was

best practice. How is it decided that 10 per cent is the right number?

Professor Henderson: We wanted to minimise disruption. The 2011 consultation suggested that there was public support for a consistent, Scotland-wide methodology. There was no overwhelming call for a significant increase in councillor numbers but there was also no overwhelming call for significant disruption to the number of councillors for each council area. Therefore, the 2011 consultation on methodology suggested that, if there was a chance for us to minimise disruption, we should probably take it. All the correspondence that we have had with Government officials and the minister suggested that that was the best way to go.

Kenneth Gibson (Cunninghame North) (SNP): Ruth Maguire is obviously referring to North Ayrshire. The boundary commission proposals on numbers for North Ayrshire were better than the ones from North Ayrshire Council, which would have been widely disruptive in my constituency.

Your submission talks about parity. Ruth Maguire represents Cunninghame South, which will have 17 councillors under the new proposals, and I represent Cunninghame North, which will have 16. However, I have 56,000 electors and she has about 50,000, so I will have about 3,500 electors per councillor whereas Ruth will have slightly fewer than 3,000. How does that sit with the view that each vote in a local authority area should be in parity? I know that there is variation council by council but, if we are talking about parity, there should surely be the same number of councillors per head within a local authority. That is certainly not the case in North Ayrshire.

Professor Henderson: That is a good question. That is what we try to do. There are a number of ways of looking at the issue, one of which is to look at it on a Scotland-wide basis. People in different parts of Scotland live with very different ratios. The value of one vote in Edinburgh is that of about nine votes in the Western Isles.

Kenneth Gibson: It is the other way round.

Professor Henderson: Sorry—it is the other way round. There is variation in Scotland already, and some people would say that that is too much variation.

Looking within council areas, we try to stay as close to parity as possible. We use that 10 per cent best practice measure. We try as best we can to keep the ratio of electors to councillors the same within a council area, but we get variations. Sometimes that is because we try to draw the boundaries not strictly according to parity. Working within that 10 per cent, are there places where we can draw the boundary to capture local ties and

are there places where we can draw the boundary so that it is easily identifiable? In addition, we are allowed to deviate from parity subject to special geographic considerations.

Kenneth Gibson: Although local ties might be broken by making a particular boundary, some boundaries in North Ayrshire make no sense at all. There is a wee community called Barrmill that is a 40-minute drive from West Kilbride, which is in the same ward.

Why does proportionality vary within local authority areas? For example, North Ayrshire has two three-member wards and six four-member wards. East Renfrewshire has 20 members, so I would have thought that it would have five four-member wards, but no—it has two four-member wards and four three-member wards. That makes a significant difference in elections, because in a three-member ward someone needs 25 per cent plus one to get elected, and in a four-member ward they need 20 per cent plus one. If you are talking about parity in a local authority area, surely all its wards should be three-member wards or four-member wards. I am not sure why we have that disparity in the number of councillors who represent a locality. It has a significant impact on representation.

Professor Henderson: Presumably that would be true across Scotland as a whole.

Kenneth Gibson: Yes.

Professor Henderson: We are given three-member wards and four-member wards to work with, and we work with them. In fact, we have noted instances where having two-member wards and five-member wards would have been helpful to us and enabled us to capture local ties and special geographic circumstances better.

Kenneth Gibson: You have to work with three-member wards and four-member wards, so why not make every ward in a local authority a four-member ward or a three-member ward? Why do you vary between threes and fours within a local authority area? Obviously that has an impact.

Professor Henderson: Sometimes we do it because there is already a mix of three-member wards and four-member wards and we are trying to minimise change, in terms of where the boundaries are. We are trying to keep them, where we can, if we need to—

Kenneth Gibson: Why would you have them that way in the first place?

Professor Henderson: Why did the fourth reviews come up with the results that they did?

Kenneth Gibson: Surely when the boundaries were set up, you would have wanted them to be much more straightforward, sensible and easily

understandable by local people. The whole point is about parity. A vote in one part of a local authority should mean the same as a vote in another, and quite clearly it does not when you have differences in the number of voters per councillor and in ward sizes of three or four members, which limits things. For example, you could get four parties in a four-member ward, but you will only ever get three in a three-member ward. I am trying to ask why you cannot have parity within a local authority area, in terms of ward sizes and representation.

The Convener: Thank you, Mr Gibson. We will give Professor Henderson a chance to put the boundary commission's position to the committee.

Kenneth Gibson: Sure.

Professor Henderson: I certainly cannot comment on why the fourth reviews found the results that they did. Mathematically, we cannot always have just three-member wards or four-member wards. At times we feel that a mix of three-member wards and four-member wards makes sense, because we are trying to use easily identifiable boundaries and reflect community ties. When we create boundaries, we are trying to use the boundaries that are already there: the community council boundaries, for example, or the previous ward boundaries. Sometimes we look at the Scottish Parliament or Westminster Parliament constituency boundaries. We are trying to use other boundaries that are in place, so that we are not drawing a line that makes no sense in order to divide people into equal three or four-member chunks.

If we have had any public representation on the issue, it has been to say that we should be paying attention to such things. We should pay attention to local ties where we can. I am not sure that a bunch of exactly proportioned boxes that have the sufficient number of electors to have four councillors in an area is necessarily a solution that would have been well received in all cases.

10:15

The Convener: I will follow up on some of that. On the guidelines and criteria that you used, is there not an inherent contradiction between respecting local ties and boundaries and having an arithmetically pure formula that provides parity, which some might call conformity? I could cite my constituency as an example, but I will not. However, there can be less co-alignment between Scottish Parliament constituencies and ward boundaries, but it could be argued that the new wards better represent actual communities. There seems to be no black and white in relation to that, but a degree of latitude instead.

Can you say a bit more about the contradictions that you faced in coming to your decisions? I am

trying to draw out whether it came down to a judgment. For example, you could have had five options in front of you, of which two or three might have been acceptable, but ultimately you had to opt for one. We are trying to get at the methodology that you used, and at whether you sometimes had not to bypass the methodology but just to accept that there was a compelling argument in some circumstances for ignoring parity and going for local ties and boundaries. To what extent did you have a conflict in trying to reach certain decisions?

Professor Henderson: Your point is absolutely right. The tension comes from the legislation, which says that we have to pay attention to electoral parity above all else. In a way, therefore, there is no tension because we have to pay attention to electoral parity and we can deviate from parity only if there are special geographic circumstances. The local ties aspect is not set up in the legislation, which says that we must have regard to parity, then we can pay attention to easily identifiable boundaries and drawing borders that will not break local ties.

You are right to say that in practice there is a tension between electoral parity and local ties. However, the legislation requires us to err on the side of parity. You are also right about the options, because we had multiple options for each council area. We consulted on ward design with councils in the first instance. Some councils wrote back to us to say that, although we had selected a particular option, they thought that another option better reflected local ties in the area. For example, we proposed an option in Dundee but the council told us that another option that we had looked at better reflected local community ties, so we changed to that version and went out to public consultation on it.

The Convener: It is almost as if you knew what the next question was going to be, Professor Henderson. Elaine Smith wants to follow up on how you used some of the submissions that you received in evidence.

Elaine Smith (Central Scotland) (Lab): Thank you for joining us this morning, Professor Henderson. You talked in your opening statement about being responsive to the submissions that you received. You mentioned councils, and perhaps you can come to that aspect later. However, specifically, can you tell us about the extent to which submissions from the public impacted on your conclusions? Can you give us any examples of that?

Professor Henderson: Absolutely. Laura Cregan has the figures for the number of representations that were made by members of the public, other individuals and different bodies. About a quarter of the cases were on councillor

numbers, and there were more cases on ward design. The changes that we made in response fell largely into two categories. The first was about people calling for their community to be within a single ward—for example, that was the case with Colinton in Edinburgh, Houston in Renfrewshire and Bridge of Allan. The people in those communities wanted their community to be represented in a single ward even if that meant that they would have fewer councillors than would otherwise be the case.

The second category was about electors in a community wanting to be paired with another community. For example, we made changes for Newcastleton, in Hawick, and for Nairn and Cawdor. We responded to public demand in making those changes.

It is worth noting that we got contradictory advice, in the sense that people in some communities expressed a desire to put all the communities in a single ward; other people told us that they did not want to be in a single ward but that they wanted their community divided, even if that meant that they were connected with other communities, as that would mean that they would have more councillors to keep an eye on the area. That was the case in the Hawick instance; it was also the case in Musselburgh.

We got representations arguing for completely the opposite thing: some people wanted to be together in a smaller ward, while some people wanted to be separated out in divided wards with more representation. We tried to do what we could and, if we found a way to make it work, we did.

Elaine Smith: Further to that, were the responses that you got from councils important? Were they timely? What information did they provide to assist you?

Professor Henderson: Absolutely. We had representations from councils on councillor numbers and ward design, and we made changes. I mentioned Dundee, but in the Scottish Borders we had an option on ward design that we put to Scottish Borders Council, and it said that it thought that it could do a better job. It took four days to draft a proposal, which it brought to us. The solution seemed to be a good one—we believed that the council's design better reflected local ties, given its knowledge, so that is the version that we went out to public consultation on. Therefore, we have evidence of how we changed our proposals not just on councillor numbers but on ward design, following both the consultation with the councils and the consultation with the public.

Elaine Smith: You have talked a lot about councillor numbers, the consultation, ward design and whether communities are naturally kept together, but could you tell us a wee bit about the

measures of deprivation that you used and how that impacted on your findings?

Professor Henderson: Sure. We used two measures to categorise councils. In the previous reviews, the two measures that were used to categorise councils were both measures of rurality. One was about population distribution and the other was about density. We felt that those two measures measured pretty much the same thing. In the consultation in 2011, although there was continued support for the notion of categorising councils, a call was made for us to think about the measures that we used.

We looked at other bodies that were creating categories of councils at the time. For example, we looked at how the Scottish local authorities remuneration committee banded councils. It used the Scottish index of multiple deprivation, which is perhaps unfortunately named, because it leads people to believe that it is a measure of poverty, but it is not. It is a basket of measures that captures not just people who are living on particular incomes or who are on incapacity or other forms of benefit, but the school enrolment population, the proportion of people who live in a particular zone who are in higher education and crime rates. Critically for us, it also looks at public access. It looks at journey times by car and by public transport to public services, schools, shops and other amenities.

Therefore, the SIMD is not a measure of poverty, as has often been assumed; it captures a range of socioeconomic and geographic circumstances in a local area. We believed that, because it was used frequently by the Scottish Government and—critically—had been used by another body that also banded councils, it was a useful measure to use.

Alexander Stewart (Mid Scotland and Fife) (Con): I declare an interest as a serving member of Perth and Kinross Council.

We understand that the consultation process was quite lengthy because you wanted to engage with as many councils, organisations and community groups as you could. I think that that happened, given what you have said about the engagement on councillor numbers and ward design. So successful was the consultation that you decided to extend it in some areas. Were there areas in which the process was unsuccessful, from which you could learn lessons? Some council areas were much more engaged than others. Was that because people in those areas were much more active or took a greater interest in your work?

There seems to be quite a difference across the country in the extent to which people got involved. In some areas small meetings were held, but in

others there were town halls full of people who wanted to make representations. How did you manage that process? How successful do you feel that you were in ensuring that you got the public consultation and engagement that you sought?

Professor Henderson: That is a great question. We will look how things have gone with the fifth reviews from the perspective of methodology and public consultation, so that we can write up what we think our best practice is and ensure that the people who conduct the next reviews will have something to work with.

On the public consultation, we tried as best we could to create a system where people were not disadvantaged in terms of participation if, for example, they were not online. We sent information out to information points and we did a survey of how frequently those pieces of information were displayed. It was a bit patchy, I have to say.

We also created an online portal that allowed people to comment on ward design. It is an incredible piece of work and we are using it again for the Boundary Commission for Scotland and the Westminster boundaries. The user can highlight an area, redraw a boundary and highlight points where they think that it might work better or worse. We have tried to use low-tech and high-tech methods to engage as much of the population as possible.

You are absolutely right—participation was not even across the council areas. We had more than 800 responses in some cases. However, there is not necessarily a relationship between the number of responses and the number of serious concerns.

We found that there was a lot of miscommunication, and I think that we have to reflect on how we communicate what the boundaries mean. We had people saying, “You can’t put the boundary there because it would mean that I had to send my children to a different school.” People said that changes would change their postcode, their house value and where they go for their messages. None of that is true.

We have a task to improve our communications so that we make clear what the consequences of certain boundaries are. We are going to look at that when we look back at the process.

The Convener: Mr Simpson, is your question specifically on consultation? I want to ask another question about that, but if your question is also about that, I will bring you in first.

Graham Simpson (Central Scotland) (Con): It is to do with a subject that has been covered. I want to come back in on deprivation.

The Convener: I will bring you back in on that when we have finished exploring consultation.

On consultation, we could argue that the committee is performing a scrutiny role at the end point of the process. I am not saying that we should be a statutory consultee. We have been members of the committee for only few months, but the process started back in 2014, and the previous Local Government and Regeneration Committee would have had the option to scrutinise or work in partnership at the start of the process. Is there a back story that we should be aware of about representations from the previous committee or representations that the Local Government Boundary Commission for Scotland made to it?

Professor Henderson: Not while I have been a member, but that is only since October 2013.

The Convener: Right, and the process started in 2014.

Isabel Drummond-Murray (Local Government Boundary Commission for Scotland): That was the formal start of the review process. The current commissioners were all appointed towards the end of 2013.

The Convener: Okay. I will not dwell on the point, because there is as much of a responsibility for our predecessor committee if it sought to do a piece of work on the matter as there is for this committee, but I am conscious that we are scrutinising the end point of the process. In future, would it be worth while for whichever subject committee has the local government remit to scrutinise at the start of the process? Would that help public awareness and understanding?

Professor Henderson: Enhanced communication would certainly be very welcome.

Isabel Drummond-Murray: Explaining the approach might be very helpful but, of course, we would remember our independence from political considerations. Those might be of interest to you, but they are not things that we would take account of. However, explaining our approach and having those discussions would always be helpful.

The Convener: It is helpful that you mentioned the concept of political considerations. The committee's role today is to examine the process and its robustness rather than necessarily to have any political considerations within that.

I will bring in Mr Simpson in a moment, but I want to give you one more opportunity to respond on consultation. We are scrutinising the process at its end point, after it has run for two years. Is there a role for a subject committee such as this one—not as part of a politicised process but as part of a political accountability and scrutiny process—to be in at the ground floor of scrutinising the commission's remit and its initial approach? Given that there is strict independence, it might be

helpful for any concerns that the committee has to be flagged up at the start of the process rather than our waiting until the end of the process and then saying, "Here's what you should have done better."

10:30

Professor Henderson: I take Isabel Drummond-Murray's point. We would not necessarily have been able to make changes, but the opportunity to explain what we were trying to do, emphasise the rules under which we work, discuss our methodology and explain the logic of our decision making would certainly have been helpful. We visited all 32 councils and we sometimes found that there was a bit of misunderstanding about what we were trying to do and what the measures were, even though we would explain that we were using a very particular measure. There were a number of misconceptions about what we were trying to do and what we were doing.

The Convener: We might return to that. Your remit is set out clearly in statute, which states that the process is independent and must be allowed to take place. We can talk about where it is appropriate for politicians to make representations and about scrutiny and checks and balances in the system. That is no doubt an issue that the committee will have to wrestle with, so thank you for raising it.

Mr Simpson, I apologise for not bringing you in sooner.

Graham Simpson: No problem, convener.

I am not clear about where the deprivation measure came from. Was it your idea?

Professor Henderson: No, no—are you asking about deprivation, or about the SIMD in particular?

Graham Simpson: I am asking about the decision to use the deprivation measure in determining how many councillors should be in a particular council or ward.

Professor Henderson: Do you mean in terms of the categories? The 2011 consultation was on methodology, and I understand that the first discussion of deprivation surfaced then, in part because the two indicators that we had been using to categorise councils before then were measuring the same thing—they were both measures of rurality. The new approach was seen as a way of capturing not just rurality, which is relevant, but a council's socioeconomic and other geographic circumstances.

Graham Simpson: Sorry. I am still confused about where the measure came from and why it was used.

Professor Henderson: Well, we need to categorise councils. We cannot have all councils with the same ratio of electors to councillors, because that would mean that we would have to radically change the size of the council in different areas. We would end up with tiny councils in the Western Isles and very large ones in—

Graham Simpson: You misunderstand. You used deprivation as a measure to decide numbers—

Professor Henderson: No, we used deprivation as a measure to categorise councils. I was explaining why we categorise councils to begin with—because some people would say, “Why bother?” We categorised councils, and in 2011 the consultation suggested that we think about deprivation and that we reduce the number of categories, because there were too many.

We reduced the number of categories from seven to five, and we used two measures to categorise councils, but those measures do not strictly determine councillor numbers; the ratios and the population in a local area determine the councillor numbers. The measures that we use to categorise the councils are SIMD data and the proportion of the population that lives in settlements of 3,000 people or fewer, so that we have councils that are in broadly similar circumstances. There are very urban ones that have higher levels of deprivation, and there are very rural ones that have lower levels of deprivation, for example, and there are different categories of councils, so those councils that have broadly similar characteristics share a ratio in terms of the number of electors to each councillor.

Graham Simpson: So a council in a particular category would get the same ratio—

Professor Henderson: Exactly—

Graham Simpson: So you have used it, because you categorised—

Professor Henderson: We used the measure to categorise the councils. We wanted to know what the impact of deprivation is, so we ran the methodology in a number of ways. For example, we said, “Let’s assume that we are using the old categories and old indicators of density and distribution and we are just updating the ratios”—we were always going to have to update the ratios, because the number of councillors had stayed the same but the population had increased. We calculated the numbers for the old approach and for our new way of categorising things, and we found that in 16 of the 32 councils the introduction of the new indicator—SIMD data—had no impact at all on councillor numbers; there would have been exactly the same number of councillors if we had used a new ratio but kept the old way of categorising things.

Graham Simpson: What proportion of the initial recommendations did you change as a result of feedback from councils?

Professor Henderson: At the first stage, it was seven—is that correct?

Laura Cregan: We changed councillor numbers when we started to consider the ward boundary implications of certain councillor numbers, so there was nothing set in stone as a result of the methodology per se. We made changes when we started to consider the distribution of communities and so on and saw that we would have to change councillor numbers in order to get a better result.

Professor Henderson: And that was in seven council areas.

Graham Simpson: So, you changed your recommendations as a result of feedback from seven councils.

Professor Henderson: No. When it came to ward design, we sometimes found that the numbers that we had proposed just did not work—they would result in wards that were a strange shape, or in left-over wards with too many people in them. We found that we sometimes had to increase the number of councillors by one.

Graham Simpson: You mentioned Dundee City Council. Did you accept its proposals?

Professor Henderson: We suggested one option and the council told us that it preferred our other option, so we adopted that one and went out to public consultation on it. We made a change on that proposal.

The public consultation also revealed concern that West Ferry would no longer be grouped with Broughty Ferry. However, the problem with multimember wards is that, if you have an area that is worth, say, six councillors, you cannot make that a single ward; you have to divide it. We had a four-member ward in Broughty Ferry and put the boundary over as far as we could, and we put the people of West Ferry in with the people in east Dundee. There was a call to make a change to our proposal, but we could not create a six-member or seven-member ward.

Graham Simpson: But you accepted the recommendation from the council.

Professor Henderson: Yes.

Graham Simpson: That leads to what the convener was asking about, because the minister rejected those final proposals. Some people could argue that that was political interference. What is your view of that?

Professor Henderson: The minister has the authority to accept, reject or modify proposals. It has never been done before, but it is within the

minister's authority, so I suppose that we cannot be surprised if someone uses the authority that they have.

With respect to the islands, we were not particularly concerned, because it was in the SNP's manifesto that there would be an islands bill, so I suppose that we would perhaps have seen that coming.

Graham Simpson: With respect to what the convener was saying—

The Convener: Mr Simpson, we agreed earlier that Mr Wightman was going to pursue the line of questioning that you are about to go down. We agreed that there would be a move from boundary commission recommendations to ministerial approval or otherwise. I will give you a degree of latitude, but other members are going to specifically raise that point in a structured fashion.

Graham Simpson: The final point that I will make might lead to Mr Wightman's point, convener.

The Convener: It will do, so make your point.

Graham Simpson: Could we have a system where the final check is not a political check but an independent check?

Professor Henderson: There are other ways of approving boundaries. With the administrative reviews that the Local Government Boundary Commission conducts, the minister also accepts, rejects or amends. However, with the Scottish Parliament boundaries, the minister has no power to direct the commission to make any changes. The same is true for Westminster boundaries, in relation to which there is an affirmative resolution procedure as opposed to a negative resolution procedure. What is distinct in this case is not only the ministerial role but the relative absence of a parliamentary role.

The Convener: That is something that this committee will explore.

We should be careful in our use of language, because the relevant minister will give evidence to the committee in a few weeks' time, and I think that any suggestions that political considerations might play a role in the process are best put to that minister. However, it is reasonable to put on the record the fact that the decision was made by someone acting as a Government minister rather than as a representative of a party. We can explore that with the minister when they give evidence. We have to consider whether the process that exists is appropriate, but that is the process that currently exists, and I know that Mr Wightman wishes to explore it further.

Mr Wightman, thank you for your patience.

Andy Wightman (Lothian) (Green): Thank you, convener. The Local Government Boundary Commission for Scotland is required to review the boundaries every eight to 12 years. We have been doing the process largely unchanged since 1889. Do you have a view on whether the public can still have confidence in the process, given that the final decision is in the hands of a politician and there is no parliamentary role in determining the final boundaries?

My second question, which is related, is about the timetable for your reviews and the knock-on consequences for the ministerial decision on that review. Concerns have been expressed that your reporting in May 2016 and the decision being made by the minister in September 2016 were a bit too close to the May 2017 elections, given the sometimes complex processes that political parties have to go through to select candidates, which can take a bit of time, given multimember wards and so on. Can any improvements be made to the timetable?

Professor Henderson: On public confidence, there is a number of things to point out, one of which is our independence. We work within the statutory framework that we are given and we follow it closely. From that perspective, I think that the public can absolutely have confidence in the reviews.

On whether the public can have confidence in the judgment of a Scottish minister, I assume that that question applies to any policy decision. I do not know why the situation would be any different for these ones.

You are absolutely right about timetable improvements. There is certainly no time for us to conduct another review in, say, Dundee, the Scottish Borders or Argyll and Bute in time for the 2017 elections. The position is not quite as much of a surprise because we put our ward design proposals out very early so, although we made some modifications, that gave political parties some idea of what the landscape would be like for the 2017 elections. However, I take your point that the timing could be earlier.

Andy Wightman: On my first question, I was not suggesting that the public might not have confidence in the boundary commission; I was questioning whether they can have confidence in the process as a whole. You make properly independent recommendations, but the final decision, which relates to people's communities and where they live, is in the hands of an elected politician, while Parliament does not have a role in determining the final look of the boundaries. You might not have a view on that, because we have been doing that for more than 100 years, but I flag that up as a possible change, particularly in light of the comments that you made about the statutory

framework for the Scottish Parliament and Westminster Parliament elections.

Professor Henderson: The issue could well be worth exploring, in part because the position of the Local Government Boundary Commission for Scotland is about to change. We used to deal only with the boundaries for local government elections, while the Boundary Commission for Scotland used to deal with the boundaries for Westminster and Holyrood but, following the Smith commission recommendations and the Scotland Act 2016, we will also look at the boundaries for Holyrood.

The process for approving those Holyrood recommendations will be very different. The minister will have no role in amending any boundaries that we propose, and there will be a parliamentary role. Therefore, there might well be a desire to at least make the process by which boundary commission decisions are approved the same regardless of whether we are looking at local government boundaries or Scottish Parliament boundaries. Which you choose is up to you.

The Convener: Can we explore that a bit further? I will take Mr Gibson first and then I and Mr Simpson can perhaps explore the issue further. We will then go to Mr Gray, who would like to ask some questions.

Kenneth Gibson: I will ask a wee bit about flexibility, if that is okay. I talked about four-member or three-member wards in local authority areas. Another anomaly that has come up is that some communities feel completely detached from the other parts of their ward. For example, in my constituency, the Isle of Arran is 10 miles off the coast but is attached to Ardrossan, and neither community feels that that is a happy arrangement. Under the legislation, those communities have to fit into a three-member or four-member ward.

Should there be more flexibility in legislation so that there can be one-member, two-member or possibly five-member wards? Is there a role for that in such communities? Other communities around Scotland are in a similar situation.

10:45

Professor Henderson: That is a good question. We made a point of noting in our discussions where we felt that being able to use only three or four-member wards perhaps prevented us from getting a better solution that balanced parity and local ties. We did not focus on single-member wards, because we were thinking within the framework of STV, or on all kinds of multimember wards; instead, we focused on instances where it might be more helpful to have, say, a two-member ward and a five-member ward. Specifically, we

thought that such an approach might be helpful in not only Perth and Kinross but the Scottish Borders, the Western Isles, North Ayrshire and Argyll and Bute.

Kenneth Gibson: What happens in such situations is that there is a de facto single-member ward. If the councillor of whatever party it is—in the case that I highlighted, we are talking about three parties and an independent after the past four elections—resides on the island, they in effect represent it. The mainland council takes no interest, and vice versa. We have the situation that I have described in any case, and it would be better if it were otherwise.

On parity, I mentioned that there are 16 councillors in my constituency and 17 in Ruth Maguire's, with 3,500 electors per councillor in mine and 3,000 per councillor in hers. You said that you are looking at only a 10 per cent change and that you do not want to be disruptive, but the fourth reviews was only the first to look at proportional representation and multimember wards. If the wards were not constructed appropriately, should we not go back to first principles instead of building on what might not have been done properly in the first place, to ensure parity, which is so important in the legislation? I do not really think that that has happened in my neck of the woods and I am sure that the situation must be the same in other parts of Scotland.

Professor Henderson: There is another tension with regard to finding an ideal solution—I do not think that there is one such solution—and avoiding disruption. Some councils have used the wards that were created in the fourth reviews as the basis for economic or regeneration committees in their areas and, if we were to draw the lines in radically different places from one review to the next, we could introduce disruption that local councils would not necessarily find helpful.

Isabel Drummond-Murray: Because the legislation requires parity and a particular number of electors per councillor, we did not really look at proportionality in the way that Kenneth Gibson described. The legislation does not require us to do that. That comes back to the hierarchy of bits in schedule 6 to the 1973 act, which is all about parity. It does not define proportionality as something that we should look at.

Kenneth Gibson: The point that I am making is that there is no parity in my local authority area, because the weighting is towards the south of the area instead of going throughout it.

The Convener: Can we leave that for a second, Mr Gibson? We are under tight time constraints. I and Mr Simpson, to whom I will give the

opportunity to come back in, will both have to be brief.

I come back to the end point of the process, which is the ministerial decision on the boundary commission's recommendations. There again seems to be a conflict, in that if a minister accepts every recommendation, that might be seen as rubber stamping, and if they do not, it might be seen as interference. A tension sits between those two compass points, if you like. Should there be another check and balance in the system given that, under statute, the current check and balance is ministerial approval of the process?

What if we were to move away from that process and change the rules and regulations? Do you have any views on how we should do that? I bear it in mind that some of the suggestions that have been made—we will explore them—might lead to even more politicians having a say about their local areas in a politicised fashion. How do we move away—if we should move away—from the current process in a way that depoliticises things and does not lead to even more conflicts?

Professor Henderson: I suppose that we are talking about two different issues: the ability to accept or reject recommendations and the ability to amend. There are 32 separate reviews so, in a way, the minister has 32 decisions to make.

The only tension for us is that we have created a methodology that offers a Scotland-wide approach and seeks to create a solution that works best not only within a council area but for Scotland as a whole. We have attempted to make representation more equal for Scotland as a whole. We have reduced the range of ratios that are used and we have attempted to reduce the deviation from parity that occurs within council areas. Because five of the recommendations were not accepted, some of those improvements will not be realised. The ratios are not as compressed as they would have been otherwise and the deviation from parity is not as small as it would have been otherwise.

There are challenges in remaining with the boundaries from the fourth reviews in the five areas where the recommendations were not accepted. For example, the Isle of Bute has just over 5,000 people and three councillors, while Maryfield in Dundee has three councillors and 12,000 electors. That kind of disparity would not occur had all 32 recommendations been accepted.

The Convener: That does not really answer the question whether there should be a check and balance in the system in relation to the 32 recommendations that the boundary commission makes. The boundary commission will of course support all 32 of its recommendations, but there is a check and balance in the system, which is the

ministerial decision on whether to accept those recommendations. If ministers had accepted the 32 recommendations every single time, the work of the boundary commission would have been perfect since its inception. It is an esteemed organisation, but no organisation always gets everything right. The issue is whether the check and balance should sit at ministerial level and whether you are content with that. If not, what would be an alternative that did not, in theory, politicise the process?

Professor Henderson: It is not for me to comment on what the approval process for our recommendations should be. I merely point out that our recommendations attempt to get the best solution for Scotland as a whole and, by going with old boundaries that use old data, there are certain costs.

The Convener: I want to tease out whether you think that there should be a check and balance in the system.

Isabel Drummond-Murray: That is probably for others to judge but, as Ailsa Henderson pointed out, if we were talking about changes to council area boundaries, there would be a negative resolution procedure in the Parliament, so that is a different system. It is probably not for us to consider and decide which approach is better or worse.

The Convener: That is a strong point that we will definitely return to. I was just trying to tease out whether you had a position on it.

I apologise for not being as brief as I should have been. Mr Simpson is next and I promise Mr Gray that he will get in after that. Does Mr Simpson want to add anything?

Graham Simpson: Not really, because it is not fair to ask the witnesses' opinion on the issue. However, we should explore it later.

The Convener: Absolutely—we will do that. I apologise to Iain Gray.

Iain Gray (East Lothian) (Lab): Not at all.

The Convener: You have about five minutes.

Iain Gray: I have two questions that are about East Lothian, which I represent, although I will try to couch them in terms of the efficacy of the methodology. East Lothian is the fastest-growing county in Scotland. Over the past decade, its population has grown by 11 per cent and it is projected to grow by almost 25 per cent in the next 25 years. However, the commission's recommendation reduces the number of councillors that we have to represent that population. That seems to fly in the face of all common sense and to reduce rather than enhance

democratic accountability. Surely that is a failure of the process.

Professor Henderson: I do not think that it is a failure of the process. There are different ways to do it. One way is to work out the number of councillors on the basis of the council area's population, but we cannot do that and end up with sufficient councillor numbers for each local authority area—they would be too small in certain cases and too large in others. If we used just population, Glasgow City Council would end up with 166 members.

We therefore categorise the councils and look at ones that face common circumstances. We considered what puts pressure on councillors, what helps them and what makes their workload harder or less hard. We kept a measure of rurality, because we understand that that makes a difference, and we adopted a measure that we think captures other pressures that councillors face in their workload. We used that to categorise the councils. We cannot look just at population, because we would end up with council sizes that are far away from the 18 to 85 limit with which we work.

Iain Gray: Population growth in East Lothian is not marginal; it is the greatest in the whole of Scotland. I am not suggesting that our number of councillors should be increased, but I am asking why, in those circumstances, they should be reduced. That part of Scotland is not at the margins of population growth; it is the fastest-growing area in the country.

Isabel Drummond-Murray: Ailsa Henderson's point was that it was a Scotland-wide methodology that resulted in the proposals for councillor numbers in East Lothian.

Iain Gray: I say with all due respect that the professor just said that there were 32 separate reviews.

Isabel Drummond-Murray: There is a consistent methodology. Nobody has ever argued to us that there should not be a consistent Scotland-wide methodology. That is not what happens in England, and there are other approaches, but we have that consistent methodology.

Iain Gray: What is the factor that has reduced democratic accountability in East Lothian? If the methodology is not based on population, which it manifestly is not, what is the consistent factor that has led to a reduction in our number of councillors?

Professor Henderson: The methodology is not based on population because it cannot be based on population alone. As I said, that would mean ending up with markedly different and unworkable

council sizes that did not reflect the number of councils.

In creating the categories, we used two indicators. We used a measure of rurality and we used a measure that captures the socioeconomic and geographic circumstances of councils—the SIMD data. We take those two aspects together.

Iain Gray: So the reduction is based on—

Professor Henderson: Categorising councils.

Iain Gray: It is based on the SIMD categorisation—

Professor Henderson: No—not on its own.

Iain Gray: It cannot be based on population or rurality, because we have a rurality factor and the population is growing.

Professor Henderson: It is not one factor on its own; it is both together. The decision is not based on population, although population still has a role, because that is where the ratios come in. If two councils that are in the same category have similar socioeconomic and geographic circumstances, but one is smaller than the other, the larger area will end up with more councillors.

Iain Gray: I will ask just one other question. We have talked about ward design—with the number of councillors having been set. In East Lothian Council's area, the ward design in three out of the seven wards drives a coach and horses through the historical community and geographical links that you have talked about. It cuts across school catchment boundaries and Scottish Parliament boundaries. The designs were not supported by the council, by community councils, by any of the political parties or by any other political representatives, including me. If three out of seven wards have little or no support for their design, is that not also a failure, surely, in the consultation process?

Professor Henderson: I do not know that we could say that the design has little or no support. We found that we had limited public engagement on ward design, even in areas where there was concern, such as West Ferry in Dundee, Colinton in Edinburgh and Houston. We did not get overwhelming support that suggested that the majority of electors in an area were engaged with and aware of the issue. We got expressions of concern but, fundamentally, the concern was not with the ward but with the existence of multimember wards. Sometimes, what people want is a single-member ward, but there is nothing that we can do about that.

Iain Gray: In the examples that we are talking about—the wards in East Lothian—the issue is exactly about the relationship between villages and towns, for example. It is exactly about the

relationship with other boundaries, such as school catchment areas and Scottish Parliament boundaries. That was the basis of the submissions that were made by the local authority and by me. Nonetheless, there has been no change.

The Convener: I apologise to Mr Gray but, because of time constraints, we must make this the last comment. We will have to move on.

Isabel Drummond-Murray: Of course, we made changes. In East Lothian, we increased the number of councillors from what the methodology suggested by one precisely to keep Tranent and Macmerry in a ward. In a way, Iain Gray is advocating no change. If we always had to stick with a council's existing planning designations and school catchments, we would not have a role, because there would be nothing for us to look at in determining parity. We have described the process that we went through, but we moved away from the methodology to give East Lothian an extra councillor.

The Convener: I know that Mr Gray will want to reply, but I am afraid that we do not have time. I thank our witnesses for what has been a really useful evidence session. I also thank Mr Gray for coming along to participate in the committee's work. I suspend the meeting briefly before moving to the next agenda item.

11:00

Meeting suspended.

11:04

On resuming—

Subordinate Legislation

Council Tax (Substitution of Proportion) (Scotland) Order 2016 [Draft]

Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016 [Draft]

The Convener: Welcome back to the Local Government and Communities Committee meeting. We are back in public and we move to item 3, which is subordinate legislation. The committee will take evidence on the draft Council Tax (Substitution of Proportion) (Scotland) Order 2016 and the draft Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016. I welcome Derek Mackay, the Cabinet Secretary for Finance and the Constitution; Robin Haynes from the Scottish Government council tax and council tax reduction reform branch; and Stuart Foubister, who is a solicitor with the Scottish Government.

The instruments are laid under the affirmative procedure, which means that the Parliament must approve them before the provisions can come into force. Under the next two agenda items, following this evidence session, the committee will be invited to consider motions to recommend approval of the instruments.

I invite the cabinet secretary to make a short opening statement.

The Cabinet Secretary for Finance and the Constitution (Derek Mackay): Thank you for inviting me to give evidence. I will begin by saying a few words about the perhaps less debated of the two statutory instruments under consideration: the one that applies to second homes.

As the explanatory note describes, under the present legislation a council may grant a discount of between 10 and 50 per cent of normal council tax liability in respect of a second home. The draft Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016 seek to extend that flexibility to allow a council also to decide to grant no discount in respect of second homes—in other words, to charge the full council tax on second homes.

In that context, a second home is defined as a dwelling that is furnished and lived in for at least 25 days in any 12-month period but not as someone's sole or main residence. That is distinct from, for example, dwellings that have been unoccupied for more than 12 months, to which separate legislation continues to apply unchanged.

Importantly, the draft regulations do not seek to alter the treatment of properties where the owner or tenant is required by their job to live elsewhere—for example, members of the armed forces living in barracks.

More than 27,000 properties are defined as second homes in Scotland. If enacted, the draft regulations would give councils additional flexibility and autonomy to address local circumstances while raising an estimated £3 million.

The draft Council Tax (Substitution of Proportion) (Scotland) Order 2016 seeks to do one thing only: to increase the amounts of council tax payable for properties in bands E to H by 7.5 per cent, 12.5 per cent, 17.5 per cent and 22.5 per cent respectively. The change would affect just over a quarter of households in Scotland and have no impact on the 1.8 million or so properties that are in bands A to D.

The change is set out in article 2 of the draft order. It would make the council tax more proportionate. Indeed, the independent Resolution Foundation report in April this year stated that the proposals would increase the proportionality of council tax. The question that is being put to the committee and the Parliament in considering the draft order is whether we want council tax to be more proportionate by requiring people in band E to H properties to pay slightly more. If the new multipliers were implemented, with the present rates of council tax, charges for affected properties would still remain on average less than the equivalent in England or if there had been no council tax freeze. The measure will raise an additional £500 million over this parliamentary session.

The draft order is, of course, not the only change that the Scottish Government proposes. The committee has representations on other measures, some of which relate to regulations that amend the council tax reduction scheme and are presently under consideration by the Social Security Committee. Other changes are non-legislative or can be delivered within existing powers.

I note that the committee has taken evidence on a number of issues that are beyond the subject of the draft order, including a lively discussion last week on how the changes might be communicated to households. However, the resolution of many of those points will be achieved through dialogue and agreement between, in the main, the Scottish Government, the Convention of Scottish Local Authorities and the local government revenue and benefits practitioner community.

The changes can be implemented in April 2017. Wider change, as some of the evidence to the committee confirms, cannot be delivered in that

timeframe, for administrative or legislative reasons. For example, the powers under which the draft order is made do not extend to notification to taxpayers or funding to councils to implement the changes. However, the powers allow ministers to amend the proportions that determine the council tax that is charged on all dwellings in relation to the band E charge set by councils.

The key question to consider when assessing whether the draft order should be approved is whether we want to make council tax more proportionate by requiring people who are in properties in bands E to H to pay relatively more.

The Convener: Thank you, cabinet secretary. I suspect that we will have a number of questions about the draft Council Tax (Substitution of Proportion) (Scotland) Order 2016, but first I have had an indication that there are one or two brief questions about the draft Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016. I call Elaine Smith.

Elaine Smith: Thank you for joining us this morning, cabinet secretary. Can you clarify that the draft Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016, which you mentioned first in your opening statement, recognises the importance of local decision making in the changes that are being made?

Derek Mackay: I suppose that that is fair in that it gives councils the flexibility—yes.

Elaine Smith: Thank you. I just wanted to clarify that.

The Convener: A theme may be emerging here, cabinet secretary, and I am sure that we will have a lively discussion. I remind members that I am in their hands with regard to how many questions we ask, but we also have a significant period—should members wish to use it—for debates on each of the statutory instruments.

Graham Simpson: I thank you and your colleagues for coming, cabinet secretary. Your proposed change to council tax has been linked to the attainment fund. Which came first—the idea of the attainment fund and how to fund that, or a desire to reform council tax?

Derek Mackay: I suppose that that is a more difficult question for me to answer, in that I was not the cabinet secretary at the time when the statement was given about the council tax approach, which then went into the preparation of the manifesto that was presented to the public. However, the First Minister outlined our response on local taxation earlier in the year. I think that both are important to Government—reforming local taxation and targeting resources at tackling the attainment gap that exists.

Graham Simpson: I am right, though, about the money that is raised from council tax, am I not? I know that you will say that councils will keep all that money, but you will reduce the grant. Councils will get the money, but it will be used for the attainment fund.

Derek Mackay: I answered the previous question as accurately as I possibly could and I will do the same with the question about the resource. You are asking how the revenue will be raised. The multipliers will generate more money for local government, and it is with that knowledge that other decisions can then be made about the wise use of resources. However, it remains the case that every single penny that is raised by council tax, including through the multipliers, will stay with the local authority.

The method of local government funding and distribution is a matter that is agreed with local authorities. I was previously on a distribution and settlement group within local government, and that was an interesting and challenging experience. However, it remains the case that every penny that is raised in council tax will stay with those local authorities, and any further mechanism will be through the budget and the revenue support grant, as has previously been explained in the chamber.

The Convener: Mr Simpson, I have had bids for supplementary questions on the subject from Mr Gibson and Mr Stewart, but you can follow up on that if you wish.

Graham Simpson: Thank you, convener.

A lot of the evidence that the committee has received has been about local accountability. Essentially, the policy is being introduced to raise money for a national priority. There is great concern about that in local government, and that has been reflected in the evidence that we have had. How do you respond to that?

Derek Mackay: I think that some people have suggested that we are clawing council tax money away from councils, but we are not. Local authorities will keep every penny that is raised through council tax, including through the multipliers. What we are able to do through the revenue support grant and how the Government distributes the money is—similarly to the business rates scheme—to adapt the arrangements for how we allocate additional resources to local authorities. That is how we can address the issue and ensure that there are resources for education. That is a matter of discussion with local government, but council tax moneys will stay with councils. What we will discuss in targeting the attainment fund is to do with revenue support.

The Convener: Mr Simpson, do you want to come back in with a final question before I bring

others in? I now have three bids for supplementaries on this theme.

11:15

Graham Simpson: If that is okay, convener.

Cabinet secretary, I think that you are trying to dodge the issue. You know exactly what I am asking. You are going to take the money back, through grants, to fund a national priority, and that breaks local accountability. Council tax bills will rise to fund your priority. You are entitled to have priorities, whatever they are, but in essence you are funding your priority from a cut in revenue grant, as a result of increasing council tax.

Derek Mackay: You accused me of dodging the question, but I argue that you are dodging the answer, which is that local authorities will keep every penny of council tax that they raise—every penny. That is extra resource to local authorities, which is arising from the change to multipliers that we are proposing.

There is a well-established system of redistribution and distribution of resources on a needs basis, through local government finance orders and through negotiation with local authorities. That infrastructure is well established in the world of local government, which you know well.

I say again that the moneys that are derived from the multiplier change will stay in the council tax pot. Councils will have that accountability.

The Convener: Mr Simpson will have the opportunity during the debate to add to what he has said, if he wants to do so. He has had a fair airing.

Kenneth Gibson: According to the figures from the Scottish Parliament information centre, East Renfrewshire Council will raise an extra £4 million, and North Ayrshire Council, which covers the area that I represent, will raise an extra £1.9 million. In tackling the attainment gap, East Renfrewshire, which has the highest attainment in Scotland, might not need £4 million, whereas North Ayrshire might need significantly more than £1.9 million.

The cabinet secretary said that the money that is raised through council tax will stay with councils, so East Renfrewshire Council will keep its £4 million. If North Ayrshire is to have more than the £1.9 million that it will raise, to close its attainment gap, will the funding mechanism's redistribution formula be altered to ensure that in reality, on the ground, East Renfrewshire Council will get less than £4 million through its council tax increase, because it will not need it to meet the attainment challenge, whereas North Ayrshire—or Glasgow, or other deprived areas—will get significantly more?

Derek Mackay: Local government redistribution is a needs-based system. All the distribution factors and all the indicators play into that system. The Government proposed a focus on attainment, with a specific way of addressing need. The answer to the question is yes; the approach will be based on need. That is still subject to discussion with local authorities and others, but it will be done through the revenue support grant, through the grant settlement and through the distribution machinery. The answer to your question is that the system is needs based.

Alexander Stewart: I declare an interest as a serving member of Perth and Kinross Council.

Thank you for giving us an indication of where we stand. Many representatives from local authorities in Scotland are unhappy about the idea of funding national priorities in the way that is proposed, as Mr Simpson said. Given the bands that are proposed, Perth and Kinross will probably raise about £22 million from the increases, and if the Government is considering redistribution and using free school meals as an indicator, the council will expect to keep £6 million or £7 million.

I am not sure whether free school meals are being used as an indicator; there is a lot of speculation about what might happen. However, what is apparent is that residents will assume that the money that is raised from their taxes will go to support schools in their area. That will happen to an extent, but in an area such as Perth and Kinross it might be the case that the majority of the money is not used in the area. Some people might regard that as a plundering of the tax revenue that is raised.

Derek Mackay: I think that we might be repeating the issues. I can only say again that that will not be the case, because local authorities will keep every penny of the council tax that is raised in their areas.

The Government and the Parliament are entitled to look at the multipliers and the council tax proposition. That is why the issue is being debated now and will go to the Parliament.

The Government and local government engage on distribution, on the revenue support grant and on the overall budget settlement and the indicators that inform it. That is the existing infrastructure, and it is through that kind of approach that we have embarked on the current proposal. However, I repeat that every local authority will keep every penny that is raised as a consequence of the proposed changes. The Government, through the funds that we deploy and the settlement that we deliver to local government, can then discuss how the targeted resources that we are providing will be delivered to each local authority. We will of

course try to do that in partnership with local authorities.

It is correct to say that the methodology around need is to do with free school meals. We are engaging with the education sector and will engage with local government to see whether people have suggestions about another way to do it, but that is our proposition and how we will approach the issue.

The Convener: We have a final supplementary question on this subject, after which we will move on to another theme.

Elaine Smith: I do not recall in the evidence that we have received over the past few weeks anyone saying, "Don't do this." However, we have heard the Government's proposal being referred to in evidence as a "political fudge", and being called "less regressive", "slightly more progressive", "a wee bit fairer" and "tweaking at the edges".

Local authorities will raise extra funding from the bandings involved in the change, and you have told us that they will keep that extra funding, which they will. However, given what happens thereafter, is there a kind of reverse ring fencing? We have heard evidence that suggests that that is what witnesses think. You are intending to reduce funding, so what you propose is similar to ring fencing but in a kind of reverse way. It is not extra money to provide a Government priority but less money, because local authorities will get the extra money through a rise in local taxation.

Derek Mackay: That is a helpful question. Changing the multipliers will generate over £100 million through council tax, which local authorities will keep. The Government is entitled to readjust its revenue support grant to deliver targeted additionality. A number of political parties called for that kind of additionality for supporting education—specifically, to support increasing attainment. Local authorities will keep the resource, and the Government is entitled to look at the revenue support grant and all the factors within that. We will discuss that with local government and I hope that we will reach a deal and take a partnership approach on that. However, it is for us as a Government to propose our finance order and our mechanism to Parliament in order for it to judge whether it supports it. As I said, the multiplier will generate more money for public services.

Ruth Maguire: Good morning. In evidence, we have heard many people calling for revaluation of properties. Can you expand on why the Government is choosing not to undertake revaluation, and maybe speak to some of the practical implications of revaluation and the costs involved?

Derek Mackay: With regard to what revaluation could achieve, in practice it would take time, be costly and put extra uncertainty into the system, which could for many households result in a shock that they would not be prepared for. As I think the commission found, there would also be a rebalancing issue with regard to geography and tax take. A number of factors would come into play in a full-scale revaluation.

What we are proposing is not the end of the story in terms of local taxation or, for that matter, council tax. I said in the chamber that I want further discussions around what we could do next. However, I think that the steps that we are taking are very worthwhile because we are proposing a balanced approach that is more progressive, fairer and can be delivered at lower administrative cost and quickly—as early as April next year—while generating resources for public services. We have presented a balanced package. Revaluation would be a shock for many; there would be an administrative cost and it would take time to implement. I do not think that it would be particularly welcome, and the commission reported that it would be very challenging.

We are taking a very balanced approach that is giving local authorities certainty about income. It will give certainty to council tax payers, too, because the vast majority of people will not pay more as a consequence of the regulations. There is the matter of there being flexibility for local authorities to raise council tax at their discretion, for which we have proposed a cap of 3 per cent, but I think that the package is balanced and is set out in a very reasonable way.

Ruth Maguire: Why is the cap 3 per cent and what will the Government do to ensure that it is enforced?

Derek Mackay: Capping is a political judgment based partly on what would be acceptable to the public and partly on what would be in line with inflation—although it is hard to judge inflation with all the current economic turbulence and uncertainty. It is a judgment about what is reasonable for local authorities and for taxpayers—there were in the past quite substantial increases in council tax that were not welcomed by local populations. There has been a period of a council tax freeze, but it is acknowledged that that freeze cannot continue. As a party and a Government, in the election we put to the people a proposition that was endorsed, which gave us a mandate to take forward our tax proposals, including the reasonable 3 per cent cap on council tax increases.

We are approaching the matter by taking a partnership approach with local government. I want to embark on those discussions in a constructive spirit and, I hope, to find agreement,

as we have in the past. One has to use one's own judgment about whether local authorities would put council tax up beyond 3 per cent. We will start off with the partnership approach, but there are existing legislative provisions for Government to cap council tax if that is required. To do that, I would have to return to Parliament on a local authority by local authority basis, which I would do if required.

The Convener: Revaluation was recently debated in Parliament. Some members suggested that if we implement a fully progressive system as proposed by the commission, we should also implement revaluation and have the 3 per cent council tax increase, too. I am looking at the numbers on that. Under the Scottish Government proposals, the council tax for a band E property would increase by £207 per year, but under the commission proposals it would increase by £436. Band H properties' council tax would increase by £516 under the Scottish Government proposals and by £3,688 under the commission's proposals. That is before a potential 3 per cent increase. If we were also to have revaluation—which I believe we have to have at some point, cabinet secretary—would we be able to take the council tax base with us? Would we get buy-in from the families that we represent for their property to be moved into a higher tax band when their council tax would already be increasing by £400 or £500 a year—potentially plus an additional 3 per cent?

Derek Mackay: I have covered some administrative points and the convener has expressed points about the shock to the system.

If there was that degree of turbulence, there would be an issue about compliance and certainty of payment. It would mean considerable change all at one time, and the difficulties that would come with that give us great concern. There would be substantial increases—far more than we are proposing—and a lot of turbulence, uncertainty and change, at a lot of administrative cost. For all those reasons, we are not convinced about revaluation.

11:30

Kenneth Gibson: The 3 per cent figure seems to be arbitrary. The UK Government has set a long-term inflation target of 2 per cent, so I am not sure why 3 per cent has been picked. The issue goes back to local democracy, which has been raised with us by our witnesses. Surely it should be up to local government to decide what increase, if any, there should be. We elect people to make local decisions.

An increase of 3 per cent across the board—or whatever the amount below 3 per cent is—is not progressive, because it would affect everyone

equally. Many people's incomes are not increasing by 3 per cent a year, so that increase would surely hit people in the lower bands. If there is going to be a 3 per cent increase every year, which is more likely if you set a cap than it would be if you left it to local government to decide, surely that will be increasingly burdensome in the years ahead and will unpick some of the good work that has been done through the council tax freeze.

Derek Mackay: All I can say is that the SNP stood on a commitment to follow this approach, and that was endorsed by the people. In the past, people did not appreciate significant increases in council tax, which is why there was a view that the council tax, which was fully compensated for by the Scottish Government, was appropriate. However, it is right that it is time to look at empowering local authorities to make the decisions about how much council tax they charge.

We proposed the 3 per cent cap because we feel that it is a reasonable limit. Parliament and Government are entitled to set a cap if we have achieved a mandate from the people, which we believe we have. We were not the only party in the Scottish Parliament elections that proposed such a cap, so I believe that there is consensus around this issue, and around the taking of a reasonable approach to ensure that there are no particularly high council tax rises. It was not so long ago that a local authority was toying with introducing an 18 per cent council tax rise, which I think would not be welcomed by people in that local authority area.

The Government is taking a balanced approach; it is protecting household incomes and leveraging in further resources for public services, while taking the necessary steps to make the council tax more progressive.

The Convener: We will have a brief supplementary from Graham Simpson, after which we will move on to Andy Wightman, because we want to explore another theme.

Graham Simpson: I think that you said that if we had revaluation it would be a "shock to the system"—which I think means "unpopular"—and there would be winners and losers. We took evidence that suggested that 60 per cent of households are in the wrong band at the moment. Let us say that half of those would win and half of those would lose if they were revalued. How long do you want to leave it? We have values that are 25 years out of date. Do you want to go on for another 25 years?

Derek Mackay: We do not propose to have a revaluation in this term of office, and we did not propose that in the March statement or in the manifesto. We have outlined the package of

measures that we proposed and which was endorsed by the people. I am not sure whether the Conservatives now support revaluation, but it is not the position of the Government.

The Convener: We will leave that sitting there. Members will have the opportunity to explore that further in the debate. Elaine Smith wants to come in before Andy Wightman.

Elaine Smith: The cabinet secretary has said several times that the SNP has a mandate because of what was in its manifesto. I presume that that is why you did not consult fully on the changes. If you had consulted, much of the evidence that we received would have been explored in that consultation. Do you really feel that that was the correct approach, given that you are not a majority but a minority Government? Would not it have been better to consult?

Derek Mackay: We reflected on the commission's work, we listened to other stakeholders and then we formed a view, as a party and as a Government, on what we wanted to propose. We believe that the package that we are offering—particularly on the multipliers, which are what we are debating today—is the right one to generate more income and to make council tax fairer through the multiplier effect, and we will do further work with local government on implementation. We need to know whether it is the will of Parliament to let the measure progress to allow the multiplier to change along the lines that we suggest, and that will be tested today.

Andy Wightman: Thank you for coming along, cabinet secretary.

I have a constituent whose flat in Edinburgh is in band E, but which is now worth quite a bit less—£20,000 less—than nearby flats that are in band B. What should I say to him when you tell Parliament and this committee that your proposals are more progressive, more proportionate and fairer?

Derek Mackay: I think that it is the case that our proposals are fair. A majority of households will not pay any more as a consequence of the multiplier change. We are trying to protect households from a big council tax increase, which is why we propose a 3 per cent cap. In addition, we will generate more resources for public services. I think that ours is a fair and balanced approach that will not deliver the shock to the system that a full-scale revaluation or astronomically high council tax increases would do.

Andy Wightman: I will tell my constituent that and see what he makes of it.

In the Local Government Finance Act 1992, it was anticipated that there would be revaluations,

which is one of the reasons why, when someone makes an alteration to their property that has the effect of changing their council tax band, that change is not implemented until the property is sold. Those provisions were put in place because it was anticipated that there would be revaluations.

You say that a revaluation now would be “a shock”. I suggest to you that that ignores the fact that deferral schemes have been introduced in Northern Ireland, that Wales had a transition and that, even under the 1992 act, you have powers to introduce a revaluation on a timetable of your choosing. If a revaluation is not to take place in this session of Parliament, when do you anticipate one taking place? Do you anticipate 1991 values still being used on their centenary, in 75 years?

The Convener: I suspect that Mr Mackay might not be the cabinet secretary in 75 years. *[Interruption.]* That said, what are the medium-term plans of the Scottish Government?

Derek Mackay: I do not know whether Mr Simpson was saying to the convener that I might still be the cabinet secretary in 75 years’ time. I suspect that I will not be.

I have made it clear that we did not propose a revaluation in our manifesto or in the March statement, so it is not a proposition for our current term of office, for all the reasons that I have given. That said, I do not think that the taking of decisions on local taxation should end with today’s decision. We should continue to discuss what further improvements we want to make. I make that offer again, because there are issues to which we can give further consideration and there are further amendments that we can make to the system. We should continue to explore that. In the chamber, I described the process as a journey, and I meant it.

Today, the committee is considering the proposals that we laid out during the course of the election, which we are now asking Parliament to support. We have embarked on the journey and we will return to other issues if members want us to explore the matter more fully. I say that in a spirit of consensus. We are taking a constructive approach. We recognise that there are issues that are worthy of further exploration, but that does not lead me to the conclusion that a wholesale revaluation is wise or necessary at this time.

Andy Wightman: I have a final question. I welcome your indication that there should be further discussions. You say that you are implementing your manifesto. On 22 September, you told the chamber:

“I categorically assure every local authority area that every penny that is raised in council tax will stay in that local authority area. How we propose to allocate revenues towards education is as was proposed in our manifesto,

which is through the revenue support grant.”—*[Official Report, 22 September 2016; c 37.]*

Can you point me to the bit of the manifesto that says that you would distribute or allocate those revenues through the revenue support grant?

Derek Mackay: What we are complying with is the desire to raise the extra funding and our proposal to spend resources on education through the attainment fund. Raising council tax, which stays with local authorities, allows us to have a mechanism within the revenue support grant.

The Scottish Parliament manifesto that the SNP produced did not cover every element of local government distribution. You would not expect it to, because some of that is down to dialogue with local government. However, we fund local authorities largely through the revenue support grant or the local government finance orders that come to Parliament.

I have made it clear that we want to deliver the increase to the attainment fund and see through the multiplier changes and, as finance secretary, I propose to do that as part of the revenue support grant. After all, there is existing infrastructure for determining need and distributing resources.

The Convener: You have said that this statutory instrument is not the end point of the process and that, as you said in the debate the other week, this is a journey. Before we move to the next question, can I ask how, as we continue on this journey, you see the role of the committee in working collegiately with the Scottish Government to tease out some of the options, including suggestions that, if the committee can reach unanimity on them, could be explored further by the Scottish Government?

Derek Mackay: Clearly, I want to deliver the Government’s manifesto, but we also want to continue to be progressive and reasonable in our approach in the light of circumstances. The committee can continue to have discussions, and I am certainly happy to be engaged in that; equally, political parties will give me their budget asks and express their views on budget proposals and what they think the future of taxation should look like. As I have said, I am open minded and I know that, at First Minister’s questions, the First Minister said that she, too, is happy to engage on tax matters. That commitment to engage, listen to views and take things forward is certainly there, but we also want to do what any Government wants to do, which is to deliver our manifesto.

The Convener: I understand that, cabinet secretary. Elaine Smith has a supplementary.

Elaine Smith: On the subject of revaluation, I should point out that some council tax payers were not even born when their properties were

assessed. That point has to be made, because we heard a lot of concerns about it in evidence; indeed, one of the professors who gave evidence said that it

“really undermines the credibility of the system”—[*Official Report, Local Government and Communities Committee*, 21 September 2016; c 6.]

if about 57 per cent of the properties are in the wrong band. I accept your comment that revaluation was not a part of your manifesto but, going back to my earlier point and perhaps building on what the convener has just said, I wonder whether, given that there is a minority Government, you are at least open minded on testing the will of Parliament as to whether there should be a revaluation.

Derek Mackay: I am expressing the Government’s view that we do not see a revaluation as wise or necessary. It would be costly and disruptive, and I think that there would also be compliance issues. A lot of the issues were discussed this morning, and it is not a proposition that we support. The collection rates for council tax are largely high, and we want to build in more progressivity. Of course, I point out that work on the council tax reduction scheme is going on separately in another committee. This feels like the right balanced approach. Because revaluation would bring so much administrative turmoil, cost and uncertainty and would raise the issue of compliance, it would be a concern for the Government—and potentially for local authorities, too, if there was an effect and an impact on their collection rates.

The Convener: Mr Stewart has indicated that he would like to ask another question before we move to the debate on the motion, and I see that Mr Simpson wants to get in. Mr Simpson, is your supplementary specifically on revaluation?

Graham Simpson: No.

The Convener: In that case, I will take Mr Stewart first.

11:45

Alexander Stewart: Many people said that the council tax freeze was unsustainable, so it might not be a surprise to everyone that we are going to have this change. However, how are we planning to ensure that the public awareness campaign is progressive and that people get the opportunity to hear about the change before the bill lands on their doormat? It is important that we get a flavour of what is planned in the run-up to the change, and of how people can engage with that process, because for some it will not be a surprise, but for others it will be a shock.

Derek Mackay: That is a fair question about the communication of what is decided. Parliament, through its committees, will determine what is decided, and that determination will then go to the whole Parliament. The communication exercise that follows that will be extremely important, because we need to raise awareness about what is happening.

Principally, the council tax notice that comes through the door is the piece of correspondence that people will look at. There is a job of work to be done to communicate what is happening with the multiplier, so that everyone understands it and knows how it affects individuals. Although it is not necessarily a matter for this committee, the council tax reduction scheme is an important factor and we need to ensure that we raise awareness of it so that people get the relief that they are entitled to. The decisions that local authorities might make on any council tax increases must be communicated, too. All that must be communicated direct to householders, because this is a tax that touches every household. It is important that we share the information as soon as possible.

Clarity about what is going to happen will be available—hopefully from today—to the information technology companies, the service providers, the world of local government and householders. At that point, we can embark on that campaign.

The Convener: Mr Gibson has a supplementary question on that point.

Kenneth Gibson: You are going to send out notifications to say that council tax in bands E to H will increase. Are you also going to send a letter to the 74 per cent of people whose council tax bands will not experience a change to let them know that the Scottish Government is not going to increase their council tax?

Derek Mackay: I am sure that the Government will be as positive as possible in our approach. We will work in dialogue with local government and, ideally, it would be good to have a joint piece of communication between the Scottish Government and the Convention of Scottish Local Authorities about how we share the information to local householders.

I am sure that political parties will express their own views about council tax bills as we approach the forthcoming local government elections.

The Convener: I suspect that they will.

Mr Gibson’s question was helpful. My take on last week’s evidence-taking session was that everyone wishes the council tax to increase—although they have different ideas for the mechanisms by which that could happen—but no

one wants to take the credit or blame for that. That was the mood music of last week's meeting. Some local authorities might wish that the Scottish Government was not doing it in the way that it is doing it, and others might support the Scottish Government's approach, but can you give a commitment that, regardless of such policy differences, the Scottish Government and COSLA will try to speak with one voice and in a co-ordinated fashion for the purposes of promoting this tax change to our communities?

Derek Mackay: Of course. It is important that, whatever the political differences on local taxation, good, sound and clear information is given to householders so that they know what they are paying and why they are paying it. Your plea is reasonable and I believe that the Scottish Government and COSLA will engage in that process constructively.

The Convener: Given that 32 local authorities will distribute information at taxpayers' expense, it would be helpful if there were neutral information that explains the factual position, as opposed to expressing opinions.

Derek Mackay: That is right. I am sure that we are all familiar with our own council tax bills. They are fairly dry and straightforward pieces of communication, although, sometimes, they are accompanied by information from local authorities. It is important that we try to ensure that there is joint communication from COSLA and the Scottish Government to set out the facts and the changes so that taxpayers understand clearly and in good time what they are being asked to pay.

The Convener: We are moving towards the end of our questions, but Mr Simpson has indicated that he wants to ask another one.

Graham Simpson: It is just for the sake of clarity. We have figures from SPICe about the additional income that will be raised in individual councils. For example, in the City of Edinburgh Council, the figure will be £15.6 million and, in East Renfrewshire Council, it will be £4 million. There is a variety of figures. Once you have dealt with grants, will any individual council lose more in grants than it would have gained in council tax?

Derek Mackay: The final figures and distribution have not been determined, so I cannot honestly explain that at the moment and give those figures.

Graham Simpson: So it is possible—it could happen.

Derek Mackay: As I have said throughout, local authorities keep every penny in council tax. How we then distribute through the attainment fund is yet to be determined.

Graham Simpson: Can I ask one more question, convener?

The Convener: Yes. I am conscious of time, but you can ask one more.

Graham Simpson: Cabinet secretary, if you were able to identify £100 million from somewhere else, would you be proposing these council tax changes?

Derek Mackay: That is pure speculation. Everyone has said that the council tax freeze is unsustainable—there is consensus on that. A lot of householders may want it to continue, although that is arguable. Folk have described it as popular. However, it is absolutely necessary to reform the council tax in the way that we are doing. It is also important to invest in education and in attainment, as a number of political parties have described. I think that both are necessary.

The Convener: We will move on. On an issue that that has had a significant amount of political attention, it is understandable and reasonable that we have moved towards policy and opinion, but there are some brass tacks on the statutory instrument that we have not yet explored. We will give the cabinet secretary the opportunity to put some of that on the record before we move to the formal debate. Elaine Smith wants to raise one of those points.

Elaine Smith: Actually, I want to raise two, convener, but I will put them together.

I presume that we expect a higher number of applicants for the council tax reduction scheme. Is there any attempt to target those people to provide them with adequate information? Could that be included in any national publicity campaign?

Secondly, could we have some opinion from you—or even some facts—about how the water and sewerage charges will fit in?

The Convener: That is helpful, Elaine.

Derek Mackay: Those are two key points. First, on information, we can embark on a campaign, but generic campaigns sometimes feel quite meaningless to people, whereas a bill or an invoice can feel meaningful. The invoices provide a great opportunity to build in enough information about the relief schemes and potential eligibility for them so that we get proper uptake. There are about 0.5 million recipients of the current council tax reduction scheme, and we expect that to change. We will absolutely have a clear focus on information and eligibility in a general campaign and also very specifically in that communication to every household. That would also be good for current uptake of the reduction scheme. That is an excellent point.

I appreciate the opportunity to provide clarity on water charges. Roseanna Cunningham is the cabinet secretary with responsibility for the matter but, as I understand it, the water charges have

already been laid out and we do not propose to change that this year. We do not propose to mirror the changes to council tax in the water charges, because of administrative issues. In essence, the current charging regime has already been laid out, so I do not propose a change to water bills following on automatically from the other changes.

The Convener: Thank you for giving evidence to the committee.

Under item 4, the committee will formally consider motion S5M-01522, calling for the committee to recommend approval of the draft Council Tax (Substitution of Proportion) (Scotland) Order 2016. The committee will also consider amendment S5M-01522.1. Only the cabinet secretary and members may speak in the debate. At this point, I invite the cabinet secretary to speak to and move motion S5M-01522.

Motion moved,

That the Local Government and Communities Committee recommends that the Council Tax (Substitution of Proportion) (Scotland) Order 2016 [draft] be approved.—
[Derek Mackay]

The Convener: I invite Andy Wightman to speak to and move amendment S5M-01522.1

Andy Wightman: I have lodged the amendment to seek to express the committee's awareness of the wider concerns around the Scottish Government's proposed reforms to the council tax. These concerns are not, themselves, at issue in the statutory instrument but they have come through in evidence to the committee and no doubt we will make reference to them in our forthcoming report on the legislation.

The cabinet secretary's motion takes the form of a recommendation to Parliament that the draft order be approved. Parliament will, in due course, make its mind up on that question but the committee has heard evidence that the context within which the order is being debated is problematic, most particularly the extent to which the Scottish Government's proposals on council tax reform do not address the wide range of issues that are raised by the commission on local tax reform in its final report.

The evidence that we have heard is quite clear and, given its breadth and extent and the authority of the witnesses who gave it, it deserves to be noted in the motion. The amendment does no more than note some key concerns that have been expressed to the committee in oral and written evidence. It does not seek to take a view on the validity of those concerns or on whether we, as members of the committee, agree or disagree with those concerns. It merely notes them and recognises a fact of the first recommendation of the commission on local tax reform. I commend the amendment to members.

I move amendment S5M-01522.1, to insert at end:

"but, in so doing, notes concerns in evidence to the committee that the council tax base has not been updated since 1991 and that many properties are wrongly banded and will therefore be liable to inaccurate council tax bills; further notes concerns about the appropriation of local council tax receipts for Scottish spending priorities, non-statutory rate-capping and the adequacy of communication regarding forthcoming changes to council tax, and recognises the primary recommendation of the Commission on Local Tax Reform that "The present Council Tax system must end"."

The Convener: Thank you, Mr Wightman. We now move to the open debate. I am in members' hands as to how long we wish the debate to last. Does any member wish to comment?

Elaine Smith: I am pleased that the convener chose the amendment lodged by Andy Wightman for debate today because it is fair to note the concerns that we have received in evidence at the past few meetings.

I said earlier in questioning and I will say again that much of the evidence that we received recognised that the order is either—depending on your language—slightly more progressive, slightly less regressive, or a wee bit fairer. The fact that the order allows a bit of a fairer approach to the council tax at local level has to be a good thing.

There are, of course, concerns about whether the Government is using a reverse ring-fencing approach to decide how some of that money is used, in a way. On the other hand, for me personally, it is difficult to argue against a Government policy that wants to provide funding for attainment and education; that is a good thing, but how we arrive at it has been the subject of some debate during the past few weeks.

Having looked at the evidence and considered it all, I am certainly happy and I did sign the amendment. What Parliament does is up to Parliament, but if the committee is to reflect the evidence, I make a plea to other members to support the motion as amended, because it reflects what we have seen. It simply notes the evidence and does not take a position on it.

Kenneth Gibson: Frankly, I do not think that the amendment adds anything that will not be in our committee report anyway. I draw attention to paragraph 7 of paper 1, which says:

"The Delegated Powers and Law Reform Committee ... determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit."

We are really talking about two things: the evidence that we have taken; and the instrument itself. As far as the instrument is concerned, it is implementing a manifesto commitment and it is more progressive.

As we have discussed this morning and at other meetings, there are issues to do with the mechanism. I believe that the issues of revaluation and so on will all be covered in our report so I really do not think that there is any necessity to support the amendment.

Graham Simpson: I go along with that view. The main question that we are here to decide concerns the cabinet secretary's proposals, so I do not see that there is much point to the amendment, and on that basis I will not be supporting it.

12:00

The Convener: Does any other member wish to add anything before we move to the vote?

Ruth Maguire: I echo Kenneth Gibson's thoughts. I am also a little concerned that we as a committee have not had the chance to reflect on the cabinet secretary's evidence. It would not feel quite right to agree to the amendment before doing that. Noting the concerns that have been expressed is valid, but those should be noted in the committee's report. I will not be supporting the amendment.

The Convener: Does any other member wish to come in?

Alexander Stewart: I am of like mind with several members of the committee who have spoken already. I understand the reason for the amendment, but I do not believe that it brings any more value to the process. We are here today primarily to look at the proposals from the cabinet secretary, and for that reason I will not be supporting the amendment.

The Convener: I will make a brief contribution before we move to the summing-up speeches from the member who lodged the amendment and the cabinet secretary. Does anyone wish to add anything first?

Graham Simpson: On the main question, I am essentially against what is being proposed because it breaks democratic accountability with councils, and I cannot get past that. I speak as someone who has been—in fact, is—a councillor.

In my view, that is a fundamental change to the way in which local government and local services are funded. For that reason—and that reason alone—I will not support the cabinet secretary's motion.

The Convener: I will make a few remarks, and we will then move to the closing statements.

I will be supporting the statutory instrument that is before the committee today, as I cannot not recommend to Parliament the raising of an additional £100 million to tackle the lack of

educational attainment among some of our most vulnerable children in some of our most deprived communities. For me, that is precisely what we are voting on here today, and I cannot find any compelling argument not to vote for it.

I now turn my attention to the amendment. Although I will not support the amendment, I think that Andy Wightman has done Parliament a service. Instruments quite often go through unnoticed, and so do the procedures of committees. Kenneth Gibson rightly pointed out that the committee has a reporting mechanism that will flesh out a number of the concerns that are noted in the amendment. I suppose that anyone watching the meeting today will be very aware of that process now, and will know that the committee will report on the matter and will draw to Parliament's attention anything that we think is appropriate.

We will do that after having a chance to reflect on the entire sum of the evidence that we have received over a number of weeks, which will include the cabinet secretary's responses to us today.

For that reason, I cannot bring myself to support the amendment that is before us, but I think that it is reasonable to say to anyone who is watching—and to my fellow committee members, as we seek to draft our report by consensus—that we will draw to the Parliament's attention anything that we think is appropriate. In not supporting the amendment, I will seek to produce a much more fleshed-out and considered report to submit to Parliament, although I completely understand what Mr Wightman is trying to achieve.

As there are no other contributions from members at this stage, I invite closing comments from Andy Wightman.

Andy Wightman: I have heard what members have said. On the substantive motion, I will not stand in the way of the statutory instrument passing into law. I am, however, concerned that the full ministerial powers available under the Local Government Finance Act 1992 are not being used to bring the tax base up to date. I find it unacceptable that, in April next year, people will be paying the wrong amount of tax, in particular people like the constituent whom I mentioned in the example that I gave earlier. Nevertheless, I continue to commend my amendment to the committee.

The Convener: Thank you, Mr Wightman. I call the cabinet secretary to sum up and respond to the debate.

Derek Mackay: I suppose that I should quit while I am ahead. I appreciate the support of those committee members who have spoken in favour of the statutory instrument. Fundamentally, we are

debating whether to change the multipliers to generate more money for public service, and I think that that is the right thing to do. It is a balanced approach that protects household incomes, it is more progressive, it is fairer and it is part of the journey that I described in the chamber. I want to engage further with political parties on matters of taxation, and there will be plenty of other places to discuss local government distribution, the budget and other matters.

I reassure Mr Simpson that supporting the statutory instrument today does not necessarily imply support for any consequential budget discussions. The statutory instrument is fundamentally about the multipliers, and even the Conservatives had a proposal for raising bands and the multipliers for the upper bands. I am not sure whether there is an issue of principle on the multipliers.

I think that the statutory instrument is the right approach, and I appreciate the committee's support. I, too, have heard the concerns that have been expressed in evidence, and we will all reflect on those.

The Convener: Thank you, cabinet secretary. That concludes the formal debate.

The first question is, that amendment S5M-01552.1, in the name of Andy Wightman, be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Smith, Elaine (Central Scotland) (Lab)
Wightman, Andy (Lothian) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment disagreed to.

The Convener: The second question is, that motion S5M-01552, in the name of Derek Mackay, be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Smith, Elaine (Central Scotland) (Lab)

Against

Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Abstentions

Wightman, Andy (Lothian) (Green)

The Convener: The result of the division is: For 4, Against 2, Abstentions 1.

Motion agreed to,

That the Local Government and Communities Committee recommends that the Council Tax (Substitution of Proportion) (Scotland) Order 2016 [draft] be approved.

The Convener: That concludes consideration of that particular affirmative instrument. The committee will consider its report on the Scottish statutory instrument, as previously discussed, at its next meeting, on 26 October.

Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016 [Draft]

The Convener: Agenda item 5 also concerns subordinate legislation. The committee will formally consider motion S5M-01594, on approval of the draft Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016. Only the cabinet secretary and committee members may speak during the debate. I ask the cabinet secretary to speak to and move the motion.

Motion moved,

That the Local Government and Communities Committee recommends that the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016 [draft] be approved.—[Derek Mackay]

The Convener: No member has indicated that they want to speak on the motion. I invite the cabinet secretary to sum up and—this is what it says in my brief—respond to the debate. I suspect that you will not be doing the latter, cabinet secretary, but you have the opportunity to sum up.

Derek Mackay: I welcome the consensus. There appears to be agreement on the issue. I will say no more.

The Convener: I am delighted to hear that, cabinet secretary.

Motion agreed to.

The Convener: That concludes consideration of that affirmative instrument. The committee will consider its report on the SSI at its meeting on 26 October.

I thank the cabinet secretary and his officials for attending the meeting today.

Acquisition of Land (Rate of Interest after Entry) (Scotland) Amendment Regulations 2016 (SSI 2016/258)

The Convener: Agenda item 6 is—members will be delighted to hear—more subordinate legislation. The committee will consider the Acquisition of Land (Rate of Interest after Entry) (Scotland) Amendment Regulations 2016. The instrument is laid under the negative procedure, which means that its provisions will come into force unless the Parliament votes for a motion to annul the instrument. Members will note that there was a breach of the minimum 28-day rule between the date of the regulations being laid and the date when the provisions come into force. However, the Delegated Powers and Law Reform Committee considered the breach to be acceptable in the circumstances. No motion to annul has been lodged.

Do members have any comments on the instrument?

Members: No.

The Convener: There being no comments on the instrument, I invite the committee to agree that it does not wish to make any recommendations in relation to the instrument. Is that agreed?

Members *indicated agreement.*

12:11

Meeting continued in private until 12:32.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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