



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities and Human Rights Committee

Thursday 16 March 2017

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 16 March 2017

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EQUALITIES AND HUMAN RIGHTS COMMITTEE
7th Meeting 2017, Session 5

CONVENER

*Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)

DEPUTY CONVENER

*Alex Cole-Hamilton (Edinburgh Western) (LD)

COMMITTEE MEMBERS

*Jeremy Balfour (Lothian) (Con)

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Mary Fee (West Scotland) (Lab)

*David Torrance (Kirkcaldy) (SNP)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Tam Baillie (Children and Young People's Commissioner Scotland)

David Bradwell (Scottish Faiths Action for Refugees)

Rani Dhanda (Positive Action in Housing)

Fiona MacLeod (British Red Cross (Scotland))

Neil McKittrick (British Red Cross (Northern Ireland))

Graham O'Neill (Scottish Refugee Council)

Jo Ozga (Scottish Women's Aid)

Robina Qureshi (Positive Action in Housing)

Judith Robertson (Scottish Human Rights Commission)

Kirsty Thomson (Immigration Law Practitioners Association)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Equalities and Human Rights Committee

Thursday 16 March 2017

[The Convener opened the meeting at 09:17]

Destitution, Asylum and Insecure Immigration Status

The Convener (Christina McKelvie): Good morning and welcome to the seventh meeting in 2017 of the Equalities and Human Rights Committee. I make the usual request that mobiles be switched to airplane mode or put on silent. We have received no apologies and have a full complement of colleagues.

I move swiftly on to our main agenda item, which is the first oral evidence session for our ongoing inquiry on destitution, asylum and insecure immigration status. We have been to visit many of the projects and organisations involved in that and are really keen to hear from some of those voices on the record. With us this morning we have: Fiona MacLeod, who is a senior policy and public affairs officer with the British Red Cross in Scotland; Tam Baillie, who is the Children and Young People's Commissioner Scotland; Judith Robertson, who is the chair of the Scottish Human Rights Commission; Graham O'Neill, who is a policy officer with the Scottish Refugee Council; and Jo Ozga, who is a policy worker with Scottish Women's Aid.

Good morning to you all and thank you for coming to the committee. We thank the organisations that have hosted our visits over the past few weeks and look forward to working with you on this very important topic. I will open by allowing each of you a minute or so to tell us about what you are involved in right now. I hope that that will inspire lots of questions from us—I suspect that it will.

Jo Ozga (Scottish Women's Aid): Thank you for inviting me. Scottish Women's Aid is a national organisation that works to prevent domestic abuse in Scotland. We are also the umbrella organisation for and represent the network of women's aid groups that work across Scotland to provide direct services to women and children, including refugees and support services.

Our concern comes from our membership—women's aid groups working in different areas of Scotland that are unable to support or give refuge access to women with insecure immigration status, either because they have no recourse to

public funds or because they are women from the European Union who have no access to housing benefit. We have a serious concern about the risk that those women and their children face.

The women are, largely, trapped in relationships that they are unable to leave or, if they do leave the relationship, find that they are unable to get the support and accommodation that they thought they would be entitled to or that they had been told about by police who were called to a situation. The police tell the women that they should not be living in that situation and that they have a right to live free from violence, but when they are assessed by women's aid groups, they are told that they cannot be accommodated or that they are likely to face a lengthy process to access financial support. We therefore have a serious concern about the risk to women and children in Scotland at the moment.

Graham O'Neill (Scottish Refugee Council): To echo Jo Ozga, I say that the Scottish Refugee Council is delighted to be here today and that the committee is conducting this inquiry. We are delighted because we have worked for 30 years with people who are seeking or have been granted refugee protection. One of the things that has struck us, particularly in the past 17 years, has been how destitution is built into the United Kingdom asylum process. It does not have to be like that, but in our experience, it is like that at different stages of the process.

One of the most acute stages of the process is when people have been refused asylum and find themselves with no recourse to public funds while they are still physically in Scotland—in Glasgow or wherever they have been dispersed. Through this inquiry, we are keen to talk about a different approach to combating destitution in the UK and to look at how Scotland, with its significant devolution of powers, is well placed to start considering that.

The SRC has a refugee integration service. We also have a service that works with asylum-seeking families, and we are partners in a multi-agency service—the destitute asylum seeker service—which works with people who are at risk of destitution or who are destitute to try to access either UK or Scottish entitlements to support and lift them out of destitution.

I hope that we can talk about some of those issues today.

Judith Robertson (Scottish Human Rights Commission): Good morning, and thank you for the invitation to give evidence. The Scottish Human Rights Commission's interests are in the human rights framing of the issue in Scotland. As the committee is aware, there is a limit to our mandate, as immigration is primarily a reserved power. The principal locus on immigration issues is that of the Equality and Human Rights

Commission, but because of the impact of the issue on Scottish public authorities, we felt that it was appropriate for us to bring that human rights perspective this morning, so that is what I will do. I will frame my contribution by looking at destitution as a human rights issue, and the implications of that for public authorities in Scotland, echoing some of the comments that have been made by panellists this morning.

The Convener: Thank you, Judith. Tam Baillie, as the children's commissioner, will have a particular perspective. We are keen to hear from you.

Tam Baillie (Children and Young People's Commissioner Scotland): Absolutely. I am pleased to be here and it is excellent that the committee has prompted the inquiry because we are talking about some of the most vulnerable people in our society and, by dint of that, some of the most vulnerable children, who are my main interest.

Most recently, we have been heavily involved with unaccompanied asylum-seeking children but from examples that have been given to the committee, it looks as though we have varied practice. There is a requirement for us to be much more consistent and much more aware of our responsibilities to those children and their parents and carers. That is why I am here.

I was struck by one point in the evidence. Janys Scott quoted the Court of Appeal, which referred to the "impenetrable nature" of the legislation. That colours everyone's approach to the topic. Sometimes, it is difficult to get our heads around the issues that we should be aware of, but other helpful evidence will come to light today, which I hope the committee will be able to bring to a much wider audience.

The Convener: A few committee members want to pursue specific topics with each of the witnesses, but would you like to comment first, Fiona?

Fiona MacLeod (British Red Cross (Scotland)): Yes. Good morning, everyone. I work for the British Red Cross. I echo everyone else's thanks to the committee for looking at the issue and for inviting us to give evidence.

The British Red Cross works with refugees and asylum seekers across the UK. Last year, we supported more than 30,000 asylum seekers and refugees. In Scotland, our offices are primarily based in Glasgow, where we provide support, advice and practical assistance to refugees and asylum seekers not only within the system, but outwith it, as they reunite with their families later on when they have a refugee status.

I agree with Graham O'Neill that destitution is built into the asylum process. It does not have to be that way. We are here to give evidence on the impact that that has on our clients and to emphasise that a different approach could be much more humanitarian and could prevent those individuals' rights being breached in those situations.

The Convener: Thank you very much, Fiona. Alex Cole-Hamilton has the first questions.

Alex Cole-Hamilton (Edinburgh Western) (LD): Good morning, everyone. Thank you for joining us. Tam Baillie mentioned unaccompanied children seeking asylum. I declare an interest: before I came to the Scottish Parliament I worked for Aberlour Child Care Trust, which works with the Scottish Refugee Council to deliver Scotland's guardianship service for unaccompanied asylum seekers.

In England, since the Hillingdon judgment more than a decade ago, unaccompanied children seeking asylum have been afforded at-risk status, which is slightly different to how they are regarded in Scotland. When I was working in the sector, there was a debate about how we could improve the legislative status of unaccompanied children seeking asylum in this country and whether they should be given looked-after status. Under the Children and Young People (Scotland) Act 2014, such status would entitle them to aftercare beyond the age of 21.

Will panel members with a particular interest in unaccompanied children seeking asylum give the committee an idea of where we still need to move, building on the work of the Human Trafficking and Exploitation (Scotland) Act 2015, in order to protect the status of or to give children in that position an enhanced protection in the eyes of the law?

Tam Baillie: Recently, we have been quite heavily involved with unaccompanied asylum-seeking children. I will deal with that issue, but I also want to talk about children in destitution.

Scotland has responded positively to the issue of unaccompanied asylum-seeking children. It has done so within the confines of the legislation, because it is not easy to effect the transfer to Scotland of children who are arriving in Kent. However, children have come up under the Dubs amendment. I recently attended a meeting that was chaired by the First Minister to consider the Scottish response to the issue. I was heartened by the assurances that were given by Glasgow City Council about the numbers of children that it was receiving, their looked-after status and how all the legislative responsibilities were being honoured. That is what was planned, but people were

reassured about the approach that was being taken to that group of children—

Alex Cole-Hamilton: You used the term “looked-after status”. Are unaccompanied children in Scotland who are seeking asylum afforded section 25 status under the Children (Scotland) Act 1995, so that they are, in effect, in care when they are in this country?

Tam Baillie: Assurances were given that the additional children would be looked after, and that the local authority would have to dispense to them all the new and pending responsibilities that were required by their looked-after status. Some of the detail is still to be worked out. I expect more discussion on the issue. I was certainly one of the people who went into the meeting seeking such assurances.

Alex Cole-Hamilton: That is the position for the kids who are coming here under the Dubs amendment. What about those who make their own way to a Scottish point of entry and request asylum? Are they given section 25 status?

Tam Baillie: There is an issue about section 25 versus section 22, as you might be aware. I understand that the position has still to be formally agreed. I would be pushing for them to be given section 25 status, so that those children have the full looked-after status that applies to every other child under the legislation.

09:30

Graham O'Neill: I echo Tam Baillie's comments. The Legal Services Agency did some great work about two years ago on variable practice across local authorities in Scotland, some of which were providing support under section 22 of the 1995 act, on children in need, and some of which were doing it under section 25—as they should have been—and were doing good work.

The First Minister was clear about that at the round table, and the legislation is very clear. An unaccompanied child who does not have a parental or customary care giver and who is physically in the UK, having come from outside the country, is considered to be a looked-after child up to the age of 18. They should be treated as such in assessments, review processes and decision-making processes, and in terms of entitlement to aftercare and continuing care under the pioneering Children and Young People (Scotland) Act 2014. That is our position on the status of such children.

Alex Cole-Hamilton: If the application of the 1995 act is inconsistent, in that some local authorities are still granting support to children in need only under section 22, can we as a Parliament do more through legislation to ensure

that local authorities fulfil their duties under section 25 by giving those children looked-after status?

Tam Baillie: Yes—the committee could highlight in its report the need to ensure that looked-after status is given to those children through section 25. You may hear from Kirsty Thomson about the business of section 22 versus section 25. We are still not there yet, but if the committee highlighted the issue in its report, that would be a useful lever.

I am sorry to jump back to an earlier point, but I want to highlight the plight of children who do not have unaccompanied status but are part of destitute families. From my reading of the evidence, it is quite clear that those children could and should be getting support under section 12 of the Social Work (Scotland) Act 1968. That is important for two reasons: first, because we need to ensure that local authorities or others who are responsible for providing services know that that is the case and, secondly, so that the legislation is consistently applied in practice. That message could usefully be directed through the committee's report.

Beyond that, we need to ensure that those who provide services at local level—not only local authorities—adhere to UK legislation by providing decent services for people who are caught in adverse circumstances. We have a responsibility to respond at local level to the needs of such people.

The Convener: I note from the immigration practitioners' evidence that there is an issue with kids who are transferring between local authorities, and that problems can also arise if kids have a certain status under English law and then transfer to Scotland.

I see that Fiona MacLeod wants to comment on that; I suspect that she will answer my next question before I even ask it. It is about how section 12 has been used differently, not just by local authorities but by local offices. That is one of the issues that the committee picked up on when we visited the British Red Cross.

Fiona MacLeod: There are a couple of relevant points on that. The British Red Cross has, through our youth psychosocial support services, identified a gap in provision for unaccompanied children. We are seeing children who have been age assessed in England and then dispersed through the UK asylum system as adults; they present at our Glasgow office to dispute the assessment. Currently, they are not entitled to the same level of support as someone who arrives and is legally recognised as a child, even though they may not have exhausted all legal means to challenge their age assessment. Sometimes they are not even

fully aware of what the age assessment process has involved. A gap exists in that respect.

We work with women and families, and we have seen a rising level of inconsistency in the application of care and support, specifically in the family context, where families have presented to social work departments as destitute and require support and help.

In some cases, those families have been told that the local authority has no duty to assist them and that it would meet its duties to the child by removing them from the family home and placing them in care. Some of our cases have involved very young children—in one case, the mother was still breastfeeding her child. We would argue strongly in such cases that there are no protection concerns; that it would be hugely detrimental to remove the child from their home; and that section 22 of the 1995 act should be applied to protect the family unit and serve the best interests of the child.

The Convener: We heard such stories face to face from some of the families whom we met on our visit, so the issue is very much on our radar. The last thing that we want is to have families split up.

Mary Fee (West Scotland) (Lab): Good morning. I thank you all for your written evidence and for assisting us in our visits.

The committee is keen to produce a report that makes clear recommendations on what should be done. I was struck by what the written evidence from Graham O'Neill and the Scottish Refugee Council says about the freedom of information requests that were submitted to local authorities, and in particular by councils' lack of response and awareness. In practical terms, do you think that compelling or requesting the Convention of Scottish Local Authorities to update its guidance would make a real difference, or could something else be done? I am also keen to hear from the other panel members about practical things that we could put in our report that would make a difference and help families.

Graham O'Neill: That is a pertinent question. An update of COSLA's guidance is necessary, but by no means sufficient. One point that we took from the responses to the freedom of information requests was that councils had little knowledge of technical terms such as "no recourse to public funds", and no human rights assessment practices. Such knowledge is essential for a local authority to ensure that it is acting lawfully when it makes a decision on whether to give somebody support under the relevant legislation, and that the decision-making process is transparent and the decision can be justified if it is challenged.

With regard to practical measures, it is clear that the needs of individuals and families in such

predicaments need to be brought within the various strategies and policies in Scotland. We have very good strategies for tackling violence against women and girls and for dealing with trafficking and exploitation, and we have the getting it right for every child framework, which is excellent. There is already a lot of good stuff, but the specific group of people that we are discussing sits outside the fabulous work that has been taken forward, and that urgently needs to change.

The new Scots refugee integration strategy is one of the most obvious vehicles to bring within the work of key statutory authorities throughout Scotland the needs of those who have been refused asylum and are at risk of, or experiencing, destitution. It is essential that that is done with the key authorities, which are local authorities and health services. We need awareness raising and training on what terms such as "no recourse to public funds" mean and on human rights assessments, and assessment tools for children in need must be refreshed.

When we talk about destitution among people with insecure immigration status, we must step back and realise that Scotland is at a crossroads in terms of the numbers, the different groups and the geographical locations of people who are seeking, or have been granted, protection as refugees. Scotland should be—and has been—praised for its very good work in that regard. However, we need to ensure that there is a system in place to ensure that local authorities and statutory bodies know who is at risk of, or experiencing, destitution and what their legal status is. Staff must feel confident and be able to work with those people, so they will need training, a clear awareness of the issues, and policies and procedures to follow.

There are a number of good policies and procedures in England that we in Scotland should adopt, but we need to move quickly to put them in place. On a practical level, the committee should recommend clear policy and procedures, as well as awareness raising and training, to ensure that people who are at risk of, or are experiencing, destitution get fair and practical access to services and protection.

Mary Fee: With regard to COSLA, who should be involved in ensuring that the requirements and regulations are up to date and fit for purpose?

Graham O'Neill: We need to move to a multi-agency approach to develop such guidance. Local authorities need to be at the heart of that, as do health services and key non-governmental organisations such as the British Red Cross, the Scottish Refugee Council, the Children and Young People's Commissioner Scotland and the Scottish Human Rights Commission. Key legal practitioners also need to be involved. I have

mentioned a lot of participants; I would probably not expand it too much beyond that. We need a multi-agency approach that brings together the key institutions and agencies to share knowledge, so that the guidance is owned. The guidance needs to take a holistic perspective and take into account someone's health issues, legal status and any child protection issues.

We talk about a response gap in Scotland in relation to destitution. We do not do so lightly—the gap is real, and we need to fill it. A practical way for us to do that is through awareness raising, training and guidance, and we need to develop those things in an inclusive, multi-agency manner.

Mary Fee: That is very helpful. Does the convener want to come in before the other panel members respond?

The Convener: On our committee visits, we heard about inconsistency in social work practice. For example, a destitute family would pitch up at a social work office, and they would either be seen or not. If they were seen, a social work assessment would ensue, as is normal procedure. However, when I asked about the human rights assessment, many people said that that was not done until months later. I would have thought that the two things would run almost in tandem, and the human rights assessment would piggyback on the social work assessment. Would it be practical to require the two assessments to take place together? Would the SHRC give advice on that?

Judith Robertson: I do not know whether a human rights assessment is a statutory requirement, but it is certainly recommended good practice in determining the human rights implications of the decisions that are made. A number of factors are in play. In legal terms, there are implications for individuals arising from two key provisions of the Human Rights Act 1998: article 3, which is the right to freedom from inhuman and degrading treatment, and article 8, which is the right to a private and family life. The lack of understanding of human rights implications in decision making is not only an issue in relation to the destitution of asylum seekers, but a systemic issue across the piece. In practice, the knowledge base among social work, housing and other public authorities is strongest on the rights of the child.

The lack of a human rights lens in making decisions is an important issue because of the extreme nature of what is happening to people at the end of the line. It is a systemic issue that runs all the way up, so I do not want to impugn local authorities specifically.

09:45

However, the Scottish Refugee Council's recommendation on the human rights assessment is really important. It is very doable to provide an understanding and analysis of human rights for local authority decision-makers, although they should be doing that on their own—it is their job, and their core duty.

Although the justiciable nature of the Human Rights Act 1998 means that it is the primary reason that local authorities, for example, can be called to judicial review, there are other international legal obligations on the right to an adequate standard of living, which would impact on the right to social security; the right to housing; and the right to social care, as well as broader rights in relation to healthcare. A range of human rights issues therefore impact on the decisions that are being made, although they are not all justiciable at present. The Scottish Human Rights Commission recommends that economic, social and cultural rights are made justiciable in Scotland within the parameters of Scots law and the devolved powers, as it would then be possible to have much stronger recourse to the courts when failures in the system happen and people become destitute for whatever reason.

Under the 1998 act, people must meet very high thresholds, which is one of the reasons that destitution happens. The arguments, which from my perspective are quite arcane, are that someone should meet the terms of the difficulty as opposed to saying that we should deal with destitution primarily as a human rights issue as it should not be allowed—in fact, it is not allowed—under international law. Does that make sense?

The Convener: Yes, I think that it does.

All the organisations here are talking about people who are seeking asylum and people who have insecure immigration status. On top of that, Jo Ozga's organisation deals with people who are not only in that situation but may be experiencing domestic violence. Jo, would you like to elaborate in response to Mary Fee's original question?

Jo Ozga: I agree with Graham O'Neill and the Scottish Refugee Council's recommendation about the need for a clear multi-agency approach to developing good guidance for local authorities and other public bodies. We know from Women's Aid groups working in different areas of Scotland that practice differs greatly with regard to assessments for providing support to children under section 12 of the 1968 act and section 22 of the 1995 act. As Fiona MacLeod said, children can be taken into care if women are experiencing domestic abuse and no support is given to the mother.

We strongly support the recommendation that much better guidance, training and awareness is

needed to enable public bodies to fulfil their duties to a much greater extent than they are currently doing. Public bodies need to recognise the risks that are posed by not providing emergency or crisis support to women and children in Scotland, and the likely outcome of not doing that, rather than simply saying that they cannot do something, which is the situation that Women's Aid groups often come across. Those groups have difficulty in challenging decisions if there is nothing there to back them up.

Mary Fee: Before Graham O'Neill comes back in, I have another question. I—and other committee members, to a certain extent—sometimes have a bit of an aversion towards guidance. I am concerned that guidance becomes something that sits on a shelf and gets dusty. I am not saying that nothing is done with it; it might be read and acknowledged, but it is not a live document.

We need to be careful when we are making recommendations that we build into them a requirement for some kind of reporting mechanism or data collection mechanism. In that way, the guidance and how it is used can be properly tracked and we can see the benefits that it is giving us. Do you agree with that?

Graham O'Neill: I completely agree. A recent example is the work that was done on the Human Trafficking and Exploitation (Scotland) Act 2015 with regard to the duty to have a strategy in Scotland against the human rights abuse of trafficking. A mechanism was deliberately put into the 2015 act for periodic reports to the Parliament precisely to make sure that there was a checking or improvement mechanism and some scrutiny and accountability. The area that we are talking about is in the same type of territory, because we are talking about pretty severe violations of people who no longer have a life and just have an existence, and who are making survival decisions that could mean being ruthlessly and horrendously exploited in exchange for accommodation. The matter is as serious as that, so we hope that the response from Parliament results in recommendations that will be commensurate with that seriousness.

On Mary Fee's question about practical measures, there is an essential need for practically accessible advocacy for people who are at risk of destitution or are experiencing destitution. I referred earlier to the asylum-seeking families service that, to its credit, Glasgow City Council funds and for which we are very grateful. The council's funding is not long term, but the service provides a holistic key-work approach and builds up trust and confidence with families. When the Immigration Act 2016 starts to take effect later this year, it will greatly increase the risk of

destitution for families. If those families do not have access to practical advocacy, they might not be able to access the Home Office entitlements to which they are entitled. That would be perverse because there would be more destitution, potentially including destitution of families, and those families in Scotland would not be able to access UK support.

If there was a preventative approach through the provision of what we know is needed, which is practically accessible advocacy services, it would prevent costs and humanitarian harm further down the line. It would also prevent costs for Scottish public authorities such as health boards, local authorities and NGOs. I stress the importance of recommendations on the need for practically accessible advocacy, which is essential.

There is no prospect of the Home Office providing advocacy for asylum seekers. The Home Office 2014 contract explicitly requires any contractor—in this case it is Migrant Help—not to provide advocacy for asylum seekers, even though we know that that is precisely what so many people need. They are completely new to the country, might not have the language and do not have the cultural and social connections that we have, so they will need somebody to help them and will need to speak to somebody. They cannot necessarily get that help over the phone from a call centre, which is the current model that the Home Office funds. I think that a really important practical recommendation would be to provide practically accessible advocacy.

Fiona MacLeod: I have two small points to make. The guidance point is valid but, for the clients who we see, it is about the process of undertaking an assessment in which their human rights are taken into consideration and there is a transparent and fair process for the local authority to make a concrete decision. In conjunction with the practical advocacy that Graham O'Neill outlined, that would give our clients and others' clients an understanding of why a decision was made and a much clearer route for challenging a decision. At the moment, assessments are sometimes not done fully and people are practically turned away at the door. The process is completely impenetrable and people cannot challenge social work or practice. I therefore think that some control can be given back to clients through the process of conducting an assessment.

I echo Graham O'Neill's point about the need for independent advocacy. We argued in our written submission that independent advocacy would be a key recommendation for the committee to consider. That advocacy is as important for groups that are at the end of the process as it is for people who are at the start of it. Independent advocacy at the start of the process could help

people to engage more positively with the asylum system and thereby reduce their chances of destitution at a later stage. I do not want to put words in her mouth but I am sure that Jo Ozga would agree that independent advocacy would be good for the group of women with insecure immigration status that she sees.

Jeremy Balfour (Lothian) (Con): I have a couple of questions to ask but, before that, I should declare that I have an interest as a councillor on Edinburgh City Council, at least for another seven weeks.

I want to fly a kite that has come to me as we have been talking. If I was a council officer in Clackmannanshire or East Lothian or wherever, I would presumably see very few of those individuals and would not have that expertise. Presumably, most of the people we are talking about are in Glasgow. Is there a mechanism, or does there need to be some kind of body, that takes the matter away from local authorities and provides more of a national approach so that there could be better practice across all 32 regions. It seems slightly unfair for an officer in a council that maybe only sees one asylum seeker every two years to be expected to have the required expertise. How do you think that he or she would be able to deal with that?

Tam Baillie: It is to do with how legislation is implemented. I share some of Mary Fee's reservations about guidance, but we have legislation that could and should be used—it is as simple as that. We should be accommodating and providing for those children and families under section 12 of the 1968 act, and we should be using section 25, rather than section 22, of the 1995 act, so that children who are unaccompanied have looked after status.

Jeremy Balfour: I accept that, but my point is that, if I am an officer in a council that very rarely sees that type of work, I simply do not have that knowledge.

Tam Baillie: I understand the point. We might be able to co-ordinate the reception of children or families at national level—certainly, COSLA and the bodies that are linked to it can provide that co-ordination—but the bottom line is that those people will come into local areas. We should make it as clear as we can how we should deal with destitute families or unaccompanied children. Otherwise, we could be in danger of setting up another cumbersome structure.

I understand the point about lack of awareness and understanding of the legislation in some areas. That is why the guidance on how the legislation should be implemented should be as clear as possible. Right now, we are lacking some of that clarity. By all means, we could look at

having a legal requirement for advocacy services for families in those circumstances, for instance, to be our safeguard in relation to the implementation of the legislation, but I am speaking off the top of my head. My priority is to make sure that the implementation happens at the local level.

Jeremy Balfour: My next question is for Fiona MacLeod or Graham O'Neill. I have had feedback as a local councillor that the Syrian resettlement worked pretty well and we got that right across most local authorities. Are there lessons that we can learn from that project—can we look at the bigger picture in order to understand why we got that right? Was it simply due to lots of money being thrown at it to make sure that we did get it right, or were there fundamental principles in what took place from which we could we say, "That worked there; let us apply it here"?

Graham O'Neill: Something more fundamental was going on in the early success of the Syrian relocation programme in Scotland, part of which was that commensurate money was put into that scheme. In the first year, about £8,500 followed an individual coming through the Syrian relocation scheme. The current contractor for the Home Office is Serco, as we know, and only £3,500 follows an asylum seeker—an adult who is dispersed to Glasgow—so there is a very stark inequality. The Home Affairs Committee at Westminster articulated that very clearly in its report into asylum accommodation that was published at the end of January this year.

The more fundamental issue is about the manner in which that programme was planned and delivered. Basically, it empowered Scottish institutions to do what they can do best. They know the country best, they know their populations, their communities and their services best. They tried to work in a joined-up way, bringing the benefits of that joined-up approach to the new arrivals.

10:00

On the UK asylum system, our written evidence spends a lot of time reiterating the point that we have been making for a number of years about destitution being built into the asylum process at the point of entry, and continuing as people go through the process, with chronic poverty, lack of support, denial of the right to work and so on. At the end of the process, people face a particularly acute risk of destitution.

As Fiona MacLeod and I said at the start, it does not need to be this way. We could have good, practical, preventive approaches in place. As we have mentioned, practical advocacy would be one such approach. Another would involve a clear understanding at a local level of people's rights

and entitlements, with safeguards built around that to ensure that they were being implemented consistently and appropriately.

In our written evidence, we discussed an intergovernmental agreement on refugee dispersal for asylum seekers, unaccompanied children and so on. We were trying to get back to the logic of what dispersal was when it was first designed in 2000. The primary relationship should be between the Scottish and UK Governments. There is nothing political about that; it is more a reflection of the facts of devolution. Most of the issues and competences relating to the reception and integration of people who are being moved to Scotland—health, housing, social work, other aspects of local government, community planning, community cohesion, crime and risks of exploitation—are devolved to the Scottish Parliament. There is a clear logic for having much greater autonomy through an intergovernmental agreement being given to Scotland to make dispersal work better.

That is not exactly what happened, but it is close to what happened with the Syrian relocation programme. If we were to learn the lessons of that success, we could build a much more inclusive, humane system in Scotland that would provide practical advocacy and a clear understanding of rights and entitlements, and so prevent or lessen the risk of destitution. Of course, destitution does not just do huge humanitarian harm; it also carries huge financial and legal risk for Scottish public authorities.

In Scotland, we need to speak very clearly, and we hope that the committee will consider the point that, although it is desirable and good sense to have an intergovernmental arrangement, it does not need to involve a discussion of devolution. It just needs to focus on practical measures that reflect the devolution of competences that we already have in the UK to ensure that the good public services that we have in Scotland can be brought to bear, clearly and humanely, for people who are at risk of destitution, among other things.

Jo Ozga: On Jeremy Balfour's earlier question about local authorities and a lack of experience due to numbers being concentrated in the Glasgow and Edinburgh areas, that is certainly not the experience of Women's Aid as regards the women who come to Women's Aid services across the different areas of Scotland. There are women who have no recourse to public funds or who are destitute because they are EU migrants, from the Highlands downwards. Different local authorities have a relatively high level of experience of having to respond to that kind of issue from women experiencing violence, and perhaps not so much directly from asylum seekers being dispersed to different areas of Scotland. It is

certainly an issue on which local authorities need to take a much more consistent approach and to be able to respond to much more effectively.

I take the point about guidance—we have a number of issues with guidance. There is a possibility to consider sharing experience and having a multi-agency practitioners network. One of our recommendations is that we should systematically gather evidence of the number of women and girls in Scotland who have insecure immigration status and experience violence or other issues. We do not know that number at the moment; it is a real gap in the information that we have.

Judith Robertson: There was a question about whether there is a positive duty on local authorities and the Scottish Government to take action to prevent destitution, no matter the context or the environment in which that occurs. Thinking of the lessons from the Syrian refugee process, I suspect that an important factor in that process—although I bow to the Scottish Refugee Council's greater knowledge—was the leadership that was shown by the Scottish Government in bringing together all the different actors and getting them into the room. That presents us with a route whereby we can positively prevent destitution and means that it is possible even within the strictures of the legislation that has been handed down to us, over which Parliament has no power. Therefore, there is a positive duty on Parliament and the Government to take what steps can be taken to prevent destitution. As well as promoting a sense of urgency, a multi-agency approach, which brings the local authorities into the room, increases knowledge and understanding of the forthcoming changes in legislation for people right across the system. That is a really important recommendation that could come from the committee, but it has not necessarily been reflected here before.

The Convener: We are running out of time. That is invariably the case, because we always hear really good evidence.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I would like to probe the issue of destitution being created, in effect, by the immigration process. Many of you have said that it is a human rights issue rather than an immigration issue, but it seems that the state is creating many of the circumstances that give rise to the problem. Graham O'Neill's submission tells us that, unless people have particular vulnerabilities, they have to travel to Croydon to access the asylum procedure. Are we getting further away from the scenario that was described a minute ago, whereby local authorities could deal locally with such issues much more robustly and properly? I sense that you are giving us the message that you are whistling in the wind a wee bit. Is that fair?

The Convener: You will know that asylum seekers used to be able to register in Glasgow, but the process was changed and they now need to go to Croydon. People get no assistance to get to Croydon, so it is up to organisations, charities or friends to give them even the bus fare to get there. Would you be keen to elaborate on that?

Graham O'Neill: Yes. The Home Office has an extensive network of offices throughout the UK, which is good. One of them is in Glasgow. However, as the convener has correctly pinpointed, the vast majority of people arrive in the UK to claim protection in-country as opposed to at a port, so they then have to go to Croydon. The risk to those people of exploitation is significant. They go into a twilight world and we do not know how they get to Croydon to access the asylum procedure. Some people do it by their own means and some do it through charities such as the Scottish Refugee Council, but we do not know how other people do it, and we think that that is unacceptable. We also think that it is quite senseless, given that the Home Office has a network of offices at which people could access the procedure.

People access the procedure in Croydon and are shortly afterwards dispersed to various parts of the country—predominantly to the north-east of England, Glasgow and some parts of Wales. Why are people not allowed to access the procedure where they are, and why is there not a mature enough system to allow them to be moved on to forms of support—if they are entitled to forms of support—while they are waiting for a decision on their claim?

It gets worse for people who are looking to re-access the asylum procedure, because asylum claims are complex and the evidence does not come in a neat box. Current circumstances in people's countries of origin change, and they often present what is called "fresh evidence", which then constitutes fresh representations. In our report, we point to statistics that show that, over the past 10 years or so, approximately 20 per cent of people who had been destitute because—among other things—they were refused asylum successfully gained protection status by making fresh representations as part of a fresh claim.

From January 2015, however, the Home Office made it very difficult for people to re-access the asylum procedure. The only place where people who have been refused asylum and are looking to re-access the asylum procedure with fresh evidence can do that is Liverpool, unless exceptional circumstances are deemed to pertain, which is very rare. That is as restrictive as the Croydon situation. People are having to re-access the asylum procedure in Liverpool when they may have been dispersed to Glasgow, Plymouth or

somewhere else very far away. Aside from the inhumanity, at issue is simply the senselessness of the policy.

Those are two examples of how destitution is built into the asylum process. People who must be dependent on such systems to access a fundamental human right may well not access that right, and may find themselves in situations of exploitation. I hope, and expect, that Police Scotland will talk about those issues, and about the particular group of people who are at risk of, or are experiencing, destitution, and their vulnerability to exploitation and—potentially—organised crime.

To go back to the severity of the issue, I say that we are talking about people who are suffering serious forms of exploitation that stem directly from the way in which the UK Government, through the Home Office, has constructed the system for accessing and re-accessing the asylum procedure.

Willie Coffey: Is the situation getting worse? Are you making any progress at all?

Graham O'Neill: I think that the situation is getting worse. The removal of practical advocacy, changes to accessing, and changes to re-accessing the asylum procedure are three examples of that. As Fiona MacLeod, I and others have said, it does not need to be that way—we could have a much more sensible and humane system.

The Convener: I have a question for Tam Baillie and Fiona MacLeod. How does the system work for young people who may be on the cusp of the age assessment, whether the assessment is challenged or not? They may still be a vulnerable young person. Do such people need to make the journey to Liverpool or Croydon on their own?

Fiona MacLeod: If the person has been assessed as being an adult, he or she would have—even if they have not exhausted all their legal means to challenge that decision—to make that journey. One of the challenges that we face is that a person is age assessed at the point when they lodge their claim, and is then dispersed into the adult system. Sometimes those people will not have travelled to Croydon on their own, although I imagine that many unaccompanied minors are making difficult and dangerous journeys.

The Convener: I find that absolutely hair-raising.

Tam Baillie: If the person is age assessed as being a child, they would be provided for as a child in Scotland. All of this should provide even more impetus for us to get it right when people are in Scotland. We are not whistling in the wind in terms of what we can do about it; we can make sure that

we act in a humane way, and that we do not end up with some more of the—to be frank—shameful stories that the committee has heard on its journeys and in evidence. There are things that we can do through our existing legislation. If a message is to come from the committee, it should be that we must make sure that there is clarity and that we must get on and do those things, rather than adding to the misery that people have already been put through because of other matters that are outwith our control.

Of course, the committee may well want to make recommendations and urge the Scottish Government to take them to the UK Government, but a clear focus for us is to get it right more often and to do better within our current framework.

The Convener: We are taking much more evidence—we have a second panel this morning, more panels coming to committee, and the Cabinet Secretary for Communities, Social Security and Equalities will come to see us in a few weeks. We have also extended an invitation to the UK Government, which it has declined. We will keep trying; we hope that the UK Government will give us written evidence for the inquiry.

We are bang up against our time—I suspect that members want a quick comfort break before we continue with the second panel. I thank you all for your oral evidence this morning and for your written evidence, which will help us. We could have talked for hours on the subject, and you will know that there is a lot of interest in it in the committee. We are really keen to take forward some of the recommendations that you have made, and we look forward to continuing our work.

10:15

Meeting suspended.

10:26

On resuming—

The Convener: Welcome back to the Equalities and Human Rights Committee. We move on to our second witness panel this morning in our inquiry into destitution and asylum. With us this morning are Neil McKittrick, who is the refugee services manager at the British Red Cross; Kirsty Thomson, who is co-convener of the immigration law practitioners group in Scotland; Robina Qureshi, who is a director at Positive Action in Housing; Rani Dhanda, who is also from Positive Action in Housing; and David Bradwell, who is the refugee co-ordinator at the Scottish faiths action for refugees project.

You will realise that we have a tight timescale this morning; it is always the same on a Thursday morning. We have some specific and pointed

questions to get on with, but I want to give the witnesses a minute or so to tell the committee about the work that you are doing. Robina Qureshi can handle the work of Positive Action in Housing. We can get through the four of you very quickly. Does David Bradwell want to start?

David Bradwell (Scottish Faiths Action for Refugees): Thank you for the invitation to speak with the committee this morning. Scottish faiths action for refugees is a multifaith partnership project. We work with Scotland's main Christian, Muslim, Jewish and interfaith organisations to co-ordinate, advocate and support a response for work with asylum seekers and refugees here in Scotland and internationally.

I am, along with a part-time colleague, Scottish faiths action for refugees: my work is as national co-ordinator, supporting local congregations all over the country.

Robina Qureshi (Positive Action in Housing): Positive Action in Housing is a refugee and migrant homelessness charity that began in 1995. The work that we have been doing in relation to destitution is primarily proactive case work and humanitarian support in the form of online crisis grants, which we are fast developing. We also have a flagship project—the “room for refugees” refugee hosting programme, which works in partnership with 214 case-work organisations across Scotland and the rest of the UK to accommodate in people's homes people from refugee backgrounds who find themselves destitute at some point in the asylum process. The programme builds long-lasting human bonds between people and we have seen life-transforming impacts from it.

The online crisis grant is, as I understand it, the biggest destitution grant in Scotland, at present. In the financial year that is about to end, we will have given out about £45,000 and, next year, the amount will be between £45,000 and £55,000, unless other crisis situations occur. As well as giving humanitarian support, we give out crisis grants to British Red Cross clients who are referred to us for hosting.

The Convener: The committee has visited a number of projects and we heard evidence of the practical help that Positive Action in Housing has given. Every single person whom we spoke to sang your praises; it was heartening to hear about the help from the people who were receiving it.

Kirsty Thomson (Immigration Law Practitioners Association): Thank you very much for inviting me here. I am a lawyer with 10 years' experience in the asylum and immigration sector; in fact, I was involved with some of the legal opinions on children and women that were mentioned by the first panel. However, today, I

represent the Immigration Law Practitioners Association, which is a charity and a membership organisation that is, largely, comprised of immigration lawyers, advocates and barristers. I co-convene our Scottish committee and am here to present our members' concerns about what the committee is considering.

The first panel concentrated on issues and problems that we are having with the current system. It is a centralised asylum support framework, in which local authority support can pick up the residual cases when not to do so would be a breach of human rights or child rights legislation. Our submission looks at the system through the prism of the Immigration Act 2016 and what the system will look like when its provisions come into force. The situation will become worse because the 2016 act restricts who can access the centralised asylum support structure and the local authority support structure. That will obviously create categories of people who may become destitute.

The act has also put in place a Home Office regulated local authority support system that will provide support to migrant families and some children who will be excluded from leaving-care provisions. We are concerned that that will increase problems with destitution. It introduces more layers of complexity and, potentially, more limited assessments because it is done through the prism of the Home Office regulating what local authorities should do. There are already concerns about how the current system relates to human rights legislation and children's rights legislation. Those concerns will continue and be magnified in the future.

10:30

The Convener: I should have said that Neil McKittrick is from the British Red Cross in Northern Ireland.

Neil McKittrick (British Red Cross (Northern Ireland)): That is correct. Thank you very much for inviting me. I am the manager of refugee support for the Red Cross in Northern Ireland. In my 10 years with the organisation we have looked a lot at the progress that has been made and at the productive work that you have done in Scotland—in particular, on integration. However, in Northern Ireland, one area on which we have advanced is destitution.

The Red Cross administers the Northern Ireland Executive crisis fund, which specifically tackles destitution in Northern Ireland. That crisis fund provides small amounts of cash to the most vulnerable people in our society with a view to their skipping destitution or to mitigating its worst effects. That has been a game changer for people

who are destitute in Northern Ireland. As well as providing a tangible resource, it gathers evidence that allows us to understand what causes destitution and what practical steps we can take to address it.

With the previous panel, you spoke a lot about practical things that you could do: there were clear and concise recommendations. I hope that such a crisis fund would be one such recommendation. I am happy to answer any questions that you might have on any aspect of it.

The Convener: It was mentioned earlier that people have to report to Croydon or Liverpool. Does a person who presents in Northern Ireland have to report to Croydon or Liverpool?

Neil McKittrick: No. Northern Ireland is not a dispersal area for asylum seekers. If somebody claims asylum in Northern Ireland, they can stay there. We do not receive people from Croydon through the dispersal mechanism. Once somebody is in Northern Ireland, they do not need to go to Croydon or Liverpool; everything can be done in Belfast.

The Convener: That is interesting.

Alex Cole-Hamilton: Good morning, everyone, and thank you for joining us. I will pick up on a number of things that Kirsty Thomson covered in her opening remarks, for which I thank her, and on something that we discussed with the previous panel of witnesses, which is the status of unaccompanied children who are seeking asylum.

From the previous witnesses' responses, it is clear that the legislation in Scotland is clear that, if a child presents at a point of entry in Scotland and asks for asylum, the local authority in which they come to settle should treat that child as looked-after and they should, therefore, have section 25 status under the Children (Scotland) Act 1995.

However, what severely alarmed me in that panel session was that application of that legal basis is not consistent in every local authority in Scotland, despite it being authorities' legal duty to afford such children the status of being looked-after and, with it, the new benefits that that status enjoys—continuing care, aftercare services and so on—since the Children and Young People (Scotland) Act 2014. Is that an accurate picture of what is going on in Scotland? What needs to happen so that local authorities consistently apply their duty in respect of the status of children who are seeking asylum?

The Convener: Will Kirsty Thomson speak about the legal aspect? After that, could Robina Qureshi talk about the experience of young people when they come to her service?

Kirsty Thomson: I agree completely with Alex Cole-Hamilton's comments. The duty is clear in

the legislation. Regardless of their age, any unaccompanied asylum-seeking child who arrives in Scotland should be looked after and accommodated under section 25. A legal opinion by Janys Scott QC made that clear.

The problem is not with the legislation but with its implementation in practice and, in particular, with its implementation for children who present when they are 16 or older. Often that does not arise as a problem until the children start to seek the delivery of obligations under the leaving care provisions that Alex Cole-Hamilton mentioned. The legislation is clear, but there are issues with implementation.

The Convener: Will Robina Qureshi tell us about some of the young people who her service has faced over the years?

Robina Qureshi: Are you talking about families when they present?

The Convener: Yes.

Robina Qureshi: Before, when a family found themselves destitute, we could rely on the local authority to take care of them—there was no issue. I will refer to our experience of what happens on the ground. We have been doing this for 13 years, so we have been able to track what is going on.

What used to happen was that, as a charity, we could safely push the issue of destitution back into the local authority's hands. Although we provide crisis grants and a hosting programme, that is not what we set out to do—we had to do it to alleviate the problem of destitution. Before, we could safely assume that the local authority, once pressed a little, would accommodate the family.

Recently—for the past year or year and a half—that has no longer been happening, certainly in Glasgow. Instead, the family are presented by, for example, the British Red Cross, which refers families who have to be hosted through our refugee hosts. The British Red Cross goes to the local authority and says that the family are homeless and destitute and that they need assistance until they can gather the evidence to submit their fresh claim, apply for judicial review or do whatever it is that they have to do for their asylum case. We have seen recently that the local authority or the social worker will say, "We will accommodate the child, but not the parents." That is saying that children will be taken away from loving and responsible parents. The parents cannot take that and end up going underground, so the child is placed in further vulnerability and we do not get to know whether there are issues that they could get support for.

When the British Red Cross presents such families at our door—or when families come direct

to our organisation—we have to consider the level of fear that the families feel about the social worker. They do not want to go back to the social worker, because the social worker will take their children away. We have been involved in cases in which we have tried to make sure that the children are not separated and we have had to ask volunteer refugee hosts to take in families, which we do not want to do. That is what is happening in Glasgow.

Alex Cole-Hamilton: Kirsty Thomson talked about issues with implementation. Are certain local authorities—I am not asking you to name them—consistently not applying section 25 status to young people who present, or does that depend on the social worker who the young person encounters? What are the issues with the implementation of the duty that local authorities have?

Kirsty Thomson: From our members' perspective, a number of factors come together. A couple of years ago, certain local authorities perhaps chose to apply section 22 over section 25. That situation has improved, but there is still a lack of awareness and confidence about how to apply the right legislation when faced with a lone child who is seeking asylum and about what that means down the line when they are 18 or 19.

There is still a lack of clarity about what the legislation means in practice and a lack of awareness across the board about how to apply it. On top of that, although we can provide legal opinions and reports, as was done a couple of years ago, we still require all sections of the sector to hold local authorities to account to make sure that all children are still being supported under section 25. For that, we need specialist legal service providers and specialist advocacy services. As Robina Qureshi said, families should not be turned away under the current system, because the legislation is clear.

When implementation is not happening in practice, a host of things come together. Somebody needs to get in there with the family to say that the legislation is clear but is not being implemented and to hold the council to account.

Alex Cole-Hamilton: I am sure that I speak for all my colleagues in saying that, as a committee, we would be keen to take action to address that. If we were to tackle the lack of awareness, to whom should we direct our correspondence? Should we write to the directors of social work or the chief executives in every local authority? We look for your guidance, as we all want to have output from this meeting.

Kirsty Thomson: My understanding was that, following the Janys Scott legal opinion, the report on the issue and some freedom of information

requests a couple of years ago, the issue had been taken up in the Government and some kind of guidance was to be prepared to clarify the situation, which was to be distributed to all the relevant individuals who you mentioned. I am not sure of the status of that; that might be a point to follow up. My understanding was that things were in motion that might address some of the points that you made.

The Convener: The committee will chase that up with no qualms at all.

Mary Fee: Good morning, panel. You heard the question that I asked the panel members in the previous evidence session about recommendations that would make a practical and tangible difference. There was broad agreement that there needs to be updated guidance to local authorities, a multi-agency approach, more data collection and better access to advocacy services. I am interested in your views. You might agree with everything that was suggested in the earlier session, or you might suggest something else that would make a practical difference.

I start with Neil McKittrick, because I am particularly interested in the brief description that he gave of the crisis fund in Northern Ireland. I appreciate that we are fairly short of time, so he might not be able to go into huge detail about how that operates, but that seems to be something quite practical that could be established here. Will he give a bit of background on the practicalities of how that works and how he measures its success?

Neil McKittrick: The fund came about after an incident in Northern Ireland when a lady lost a leg to frostbite because she was destitute and sleeping in a doorway. There was a campaign about what we could do practically to support people who face destitution, day and daily, across Northern Ireland—as is equally the case across Scotland.

The Northern Ireland Government came up with a pot of money and a pilot project. It appointed the Red Cross, which is used to providing destitution support across the UK. We took the money, developed guidelines to support people and used 13 projects that were geographically spread across Northern Ireland that could allow people to access small amounts of money.

10:45

The idea was that the partners in the project would be people who already provide support to minority ethnics or asylum seekers. People come to us and say, “I have to put in a fresh claim,” “My benefits haven’t come through,” “Something’s been sent to the wrong address,” or, “I’ve been refused.” We deal with all the practical issues that

can lead to temporary destitution and we look to tackle the cause of destitution. The money provides an opportunity for people to avoid homelessness, starvation or the other impacts of whatever the cause of the destitution is.

We have run the fund over a number of years. The statistics for last year show that we had £54,000, which met 1,511 claims by 564 people, not including their dependants. We can gather data on destitution that nobody else in the UK has. For example, 31 per cent of the people who accessed the fund were aged 31 to 40, and the average age was 35. We did not previously know that the average age of people who are destitute is about 35.

On the length of time that people had spent in Northern Ireland, we found that 14 per cent of people who accessed the funding had been there for less than two years. The committee might imagine that the majority of people are destitute when they do not know the system and do not have networks or friends, but 18 per cent of people who accessed the fund had been in Northern Ireland for longer than five years. I have been working in the sector for years, but I did not know that before the information became available.

Another key piece of information is that 51 per cent of the people made only one claim, and 46 per cent of the people claimed less than £50 from the fund. We are talking about very small amounts of money, but they are having a major impact. One of our key partners is Women’s Aid. If somebody comes in late in the afternoon, £50 can provide them with hostel accommodation over a weekend while statutory contacts are made.

When somebody comes in who is destitute, we deal with the issues that directly affect them. If they are homeless, trying to source accommodation for them can take time, but the money can immediately address the issue, which allows the experts who deal with destitution to set about resolving the situation. All the groups involved reported that they were able to concentrate on what they are good at, rather than spending all day phoning charities or faith groups to try to access support.

That is the strength of the fund. In addition, it has allowed us to gather data and identify themes on destitution. One of the main areas is the transition period between being an asylum seeker and getting refugee status, when there can be a lot of destitution, because the 28 days’ support that is provided is not long enough, as I am sure the committee has heard in evidence. Supporting refused asylum seekers is crucial. A number of people who were refused and were helped by the fund have moved on to get refugee status later, so the money was able to help them through that

period. The funding is also important for refugee family reunion. One sponsor—perhaps a parent—may come over, and then the rest of the family come over, but they have to wait for benefits and for the transition from individual support to family support, so they may be temporarily destitute.

Domestic violence is also a key issue. You have heard from Women's Aid that people who are destitute stay in relationships in order to keep a roof above their heads. The money that we provide allows people to break from an abusive relationship and get practical support while the core issue of domestic violence is addressed.

I could go on and give multiple examples, but the key point that I want to get across is that, now that we have the fund, we can convene working groups to look at such issues. To give a practical example, a pregnant lady who is in the asylum system and whose application has been refused can access support under section 4 of the Immigration and Asylum Act 1999 after she is 34 weeks pregnant, but if she is only 26 weeks pregnant, what can she do? The crisis fund will provide for such a lady during that gap, until she can access state support.

We are overwhelmed by the things that we can do. What we need to do now is prioritise them. From what I have heard this morning, it seems that the committee does not yet have a similar level of information. A small amount of money will definitely help people initially. People who need money today will be helped but, more than that, such an initiative will start to gather the data that will allow the problems to be tackled through working groups and policy. Across a range of sectors, that is mutually beneficial for understanding destitution.

David Bradwell: Following on from what the earlier panel said, the additional group that might be involved in training, guidance or awareness would be the civil society and voluntary organisations. When preparing the evidence for today, I worked with some of the church clergy who work with asylum seekers who are members of their congregations and I found that there is a lack of any understanding of how the immigration systems work and how people get access to support. For many people, their church family or their friends might be an equally useful place to discuss how to access services or get their rights articulated and advocated for.

I am also thinking of a question for the cabinet secretary if she comes to the committee. I understand that the second stage of the new Scots refugee integration strategy is being developed, and something about training in advocacy for local authorities, statutory providers and civil society groups could be included as an element of that.

I also want to suggest something new. We have done a bit of finding out about the situation that the churches and asylum sector in the Netherlands have been engaging in during the past four or five years with regard to the provision of emergency accommodation for refused asylum seekers and irregular migrants. That has been initiated there as a social movement rather than through a legislative or human rights approach. The bed, bath and bread campaign has brought together a range of different organisations to try to bring about a greater awareness among the public about the situation that is facing such people and how people can help.

Eventually, the Conference of European Churches, which is a Europe-wide umbrella group, took the Dutch Government to the European committee of social rights because it found that, by not providing sufficient support for people in that situation, the Dutch Government was in breach of its European social charter obligations. The Church of Scotland is a member of the Conference of European Churches, so we were really interested to know how that case proceeded. The complaint against the Dutch Government was successful so now, in the Netherlands, municipalities are required to support the provision of emergency shelters for bed, bath and bread. Those places also have to be centres where irregular migrants can get access to mental health support and discussion about either a reapplication or return to their country of origin.

That seems a better and much more humane way to attempt to eliminate homelessness because of irregular migration and asylum, but it is often delivered through shelters being run in church halls, and the involvement and support of voluntary groups in making it happen is also important. That might be something not so much for legislation or for Parliament, but for wider political and civic leadership, motions and debates and having things discussed in integration strategies and so on.

Mary Fee: It almost sounds as though they are taking more of a collective responsibility for the issue.

David Bradwell: Yes, but it has been politically controversial, with the different political parties in the Netherlands—that is topical, as we saw yesterday. I also think that the number of people who are in this situation is much higher in the Netherlands than in Scotland, partly because it is much harder for anyone to get to the UK through the asylum or immigration route. There is something to learn, but the scale of our situation is easier to respond to at this stage.

We are working with Positive Action in Housing and other fantastic work is being done to get individual private citizens to respond. We need to

match the legislative framework with relying on philanthropy and charity and good will.

Robina Qureshi: We were on the train from Glasgow to Edinburgh so we did not hear the earlier witnesses. I am a bit confused, because our organisation seems to come across as being a bit invisible in the paper that the British Red Cross submitted. We have a crisis grant system that matches what is happening in Northern Ireland, but zero reference has been made to it by the British Red Cross even though it applies to our organisation for crisis grants for its clients and we are happy to give them.

We are rolling that out. We spent money on information technology to distribute a minimum of £50,000 in the financial year 2017-18 in crisis grants to people who are destitute. We have considerable networks and resources to make that happen, and we have direct contact with the case workers and the people who are affected. I would like to have seen some recognition from Neil McKittrick and the British Red Cross that it takes crisis grants from us. There was zero mention of that programme, which we are now pushing. That is fine, but we should not detract from the programme that we have right now.

Scotland pioneered a refugee hosting programme in 2002, and it should be proud of that and promote it. I know that Christina McKelvie knows about our work, but the Scottish Parliament and the Scottish Government should recognise it. We sit silent and get on with the work. We are quite happy to do that, but we are not happy for it to be detracted from or for it to be said, for example, "By the way, that fund that you rely on individual donors to contribute to and to keep full in order to give out crisis grants will now be administered by the Scottish Government." I am not against that, but what would donors then think? Would they think that the problem was solved and, therefore, that they do not need to assist?

With due respect, the Red Cross in Northern Ireland will give a crisis grant of between £1 and £50. Believe me, we have experience from the past 10 years of dealing with crisis grants and getting them to the level at which there are now online crisis grants, 216 casework organisations are affiliated, every refugee aid organisation makes referrals, and lots of British Red Cross departments, the London-based Refugee Council and the Scottish Refugee Council apply for those grants. That is not a small network, and that work should be supported rather than detracted from. Governments should step in to shore that up and give us support. We would strongly welcome that. Scotland should promote that rather than say that it is not necessary.

The danger is that the most vulnerable people will not be reached, but we have that contact. Between £1 and £50 could put somebody in a hostel for a weekend, but it will not sustain them in the time that they need to gather fresh evidence, prepare a judicial review or find a decent lawyer and try to achieve the long-term stability that they need so that, eventually, they get leave to remain or find their place in life, get a job, study and become a productive taxpayer of tomorrow. That is unlike the British Government's approach, which is to leave people destitute and let them languish in the asylum process for years on end. As Home Secretary, Theresa May presided over 100,000 letters that were stuck in an office in Liverpool or Croydon. Nobody opened them. They were recorded delivery and secure registered post letters. She presided over that, and that backlog remains. We are stuck with that.

We also have a residual refugee destitution problem. We use the word "refugees"; we will not use the word "migrants" because we think that that insults what is happening to refugees. Refugees who come here to try to claim some form of stability and resettle their lives can get the assistance that they need through the hosting net. We are rapidly developing expertise by putting that patchwork programme in place. I invite members to come along and see what we are doing. It will blow your mind, for want of a better phrase.

The Convener: We were keen to have Positive Action in Housing at the committee. I think that we have around 100 pieces of written evidence in total, about 25 per cent of which is from asylum seekers. Many of them mention your lifeline and life-saver services, so we wanted to have you here along with the other organisations. As David Bradwell and others have said, we do not do things just by Government directive; we do them by ensuring that everybody works together to provide a service.

I have been involved with the destitution project since before I was a politician, so I know it well. This was a good opportunity to bring you along, get your evidence on the record, and use that.

Robina Qureshi: With due respect, I would appreciate it if the British Red Cross would recognise our work. It is a big organisation, and we are a small charity that does a big thing. That needs to be recognised and not detracted from.

The Convener: We have recommendations to make as part of our inquiry, so let us get on with that. We can take that forward.

Jeremy Balfour: Good morning. I want to follow up what I talked about with the first panel. Maybe David Bradwell and then Kirsty Thomson could answer my questions first, if that is okay. You have national experience, David. I suppose that a lot of

us are focusing on Glasgow, because that is where the majority of the work is being done, but what experience do you have from other parts of Scotland of things that work and do not work and how the church is involved in that work?

My second question is for Kirsty Thomson. From a legal perspective, would it help to have a cluster of councils coming together? My thinking on this has developed in the past 15 minutes. Would it be better if, rather than having to go to the City of Edinburgh Council or West Lothian Council, people could go to the equivalent of the old Lothian Regional Council, say, where there would be a cluster of expertise? That could happen across Scotland.

First, I would like to hear from David Bradwell about the positives and negatives of the situation outside Glasgow.

11:00

David Bradwell: I will start with the situation in Glasgow. Because of their experience of asylum dispersal, Glasgow faith groups have much better experience of doing interfaith work, engaging in intercultural dialogue and tackling racism, and many parts of the rest of the country could learn from that.

Many more people have sought asylum in Glasgow under the dispersal programme and as part of the other refugee resettlement programmes, such as the Syrian resettlement programme, than in other local authority areas. We need to ask whether that experience can be shared and consider whether, in working with destitute asylum seekers or people in a similar situation, there are things that churches and faith groups in other parts of Scotland can do to support congregations in the city, especially given that the dispersal areas are often the more deprived parts of Glasgow. If a minister in such an area has a benevolent fund, they might not have a lot of money that they can give to people who need £10, £20 or £50, whereas churches in more affluent areas that have more resource might be able to support that. I encourage groups outwith Glasgow to think of the issue as a national priority and not just as an issue for Glasgow congregations.

In my experience, some of the positive things that are happening in other parts of the country relate to the Syrian resettlement programme, because that is new and people are engaging with it. The lessons to be learned from that relate to positive collaboration between different sectors. I repeat what has been said: if the local authority, the churches, the mosques, the fire and rescue service, the police, the schools and the GP practices are all working together and discussing positive work, ideas and information will be

shared. The process works when all the sectors want to participate and share ideas and ensure that the outcome for the community and the new arrivals is better by working together.

We know from the Glasgow experience of the integration networks and the work of GIADAN—the Glasgow asylum destitution action network—which is a group of organisations such as local churches that come together every couple of months to share news about changes in law, practice and how asylum dispersal might be taking place across the city, that the sharing of information is extremely important. The process does not work when local church groups want to set up their own projects and not engage with what the local authority is doing or when the local authority wants to manage everything by itself and does not engage with others. For me, communication and networking are what make the difference.

Neil McKittrick: We must remember that, although the Syrian resettlement programme has been successful—that is true in our case and across the UK—there are people from places such as Aleppo in Syria who have become destitute through the normal asylum mechanism. Those people are looking at the Syrian resettlement programme and they will meet other Syrians at events. One person might be receiving multi-agency support to start a new life, but there might be someone from the same street or a similar location who does not have the ability to do that—they are destitute, they are homeless and they are hungry. That juxtaposition is unsettling for everybody who works in the sector, and we must keep an eye on that as the Syrian resettlement programme progresses over the next four or five years.

The Convener: Kirsty, would you like to respond to Jeremy Balfour's second question?

Kirsty Thomson: Yes. In response to the proposal about a cluster of councils coming together, I am here to represent ILPA, so I have to put forward its position. As it does not have a position on the matter, I cannot comment about that in my role, but I will comment as an individual. The legislation is clear that the responsible local authority is the one where the people are resident. Indeed, the Immigration and Asylum Act 2016 creates a whole scheme for the transfer of certain children, along with the complete transfer of responsibility, from one area to another.

From our members' perspectives, we are struggling with some of the same questions. For example, we have increased dispersal or increased children or refugee families living in other areas of the country, but our legal expertise is contained in the central belt. What should we do about that? What are our roles and responsibilities

in trying to share the expertise? Shuttling someone up and down the country in order to provide advice might be an intermediate solution, but it is not a long-term solution.

If dispersal is going to happen and we need that knowledge and awareness in the legal community and other areas, what can we in the legal community and the Government do in order to facilitate that sharing of knowledge and expertise?

The Convener: This might be where I can bring in Rani Dhanda, who I am aware has a research role in Positive Action in Housing. In his opening remarks, Neil McKittrick talked about how data can be used. Is there any connection between your work and the work that others are doing?

Rani Dhanda (Positive Action in Housing): I have listened to all the speakers. The data is there; it is available. As the speakers identified, the different city councils do not have a uniform approach. Although the legislation is in place, the difference is in its implementation. It could be that councils unwittingly do not know how to implement the legislation, but it could be deliberate action on their part, too—that is an open question. We need guidance from the Scottish Government. The guidance needs to come from the ground—from organisations, such as Positive Action in Housing, that have experience of working with city councils, because we are aware of what gets in the way and what works and what does not work. Therefore, a working group is required to advise the Scottish Government. The Government then has to follow through its work, not to leave it, because the issue is about implementation and working with each local authority to ensure that that happens correctly, that the work is not seen as a one-off and that the political will is there to make it happen. A few years' constant work is needed.

Robina Qureshi: Like most people, we anticipate that dispersal to local authorities outside Glasgow will happen. We anticipate that destitution will get worse as a result of that and the Immigration Act 2016. We have refugee hosts in almost every part of Scotland that are able to take in people—I would be very happy for you to see where they are based. However, that is not to say that refugee hosts are the solution, because it is not a solution to turn to private individuals to resolve what should be a response by local authorities or the Government to make sure that people are not left destitute. The reality is that people are being made destitute.

We have a combination of online crisis grants—we have spent a lot of money on IT developing that online capability—and the refugee hosting programme. The networks are there and the resources are considerable, when the voluntary effort and the level of pastoral support that can be

offered are factored in. That has effectively resulted in people's lives being turned around.

The Convener: I think that we will be coming back to talk to you about that issue in the future. Willie Coffey is the final member to indicate that he wishes to ask questions.

Willie Coffey: We heard from the previous panel that destitution is in effect being created by the UK Government through the Immigration Act 2016—and that it is getting worse. I am interested in where that stands in terms of international law. If a state creates circumstances that cause or create destitution for its citizens or people applying for citizenship, where does that stand in terms of international law? Have any cases been brought to test that?

The Convener: That is one for Kirsty Thomson.

Kirsty Thomson: In our submission on the forthcoming provisions of the Immigration Act 2016, we make it clear that what lies behind them is the aim to create a more hostile environment. The underlying principle of the legislation is, "If you can go home, you should go home and you will not be destitute." Many challenges have been made to the law using human rights legislation on destitution, and some have been successful. Janys Scott commented on that in her legal opinion that accompanied the British Red Cross written submission to the committee.

What interests me from the Scottish perspective is that the legislation on immigration, which is a reserved matter, has a lot of provisions that relate to devolved matters, and a Home Office-regulated framework of local authority support will come into play, but no consent was obtained from Scotland for that. If those provisions apply to Scotland, they will come into force through secondary regulations. There is therefore a lack of scrutiny, but there is also the option that, if the provisions create increased destitution and increased risk of families with children being in situations where their human rights are breached, lawyers in Scotland could make a challenge to bring down that secondary legislation on human rights grounds.

We might therefore have a situation in the future whereby it will be possible to strike down some legislative provisions in Scotland but not in the rest of the UK. That would be interesting and it would provide an interesting set of affairs for the Immigration Law Practitioners Association to consider as a UK organisation. However, there will potentially be the option, using international human rights legislation as well as our national human rights legislation, to strike down some provisions in Scotland.

Willie Coffey: But is there also an offence in the failure to even consider applications? Robina

Qureshi referred to 100,000 unopened letters, which I assume were application letters. If a state does not even consider applications, does that breach international law?

Kirsty Thomson: There are always obligations on the state, be it through the Home Office or a local authority, to protect and promote human rights. It might be possible to do something about individual breaches such as that one by using human rights legislation. However, to return to the issue of destitution, when so many people are being turned away and the processes and legislation are so complex, the question is how people know what their rights are, whether there might be a human rights breach that could be litigated on and where to go to get specialist advice to hold to account whatever authority is involved. That route is available in principle, but in practice, without clarity of guidance and of approach and without access to services to hold authorities to account, there is a deficit in that regard.

The Convener: How much of a backdrop of concern is there regarding the possible repeal of the Human Rights Act 1998 and the potential withdrawal from the ECHR? How would that complicate things for you?

Kirsty Thomson: It increases the worry.

The Convener: Will it take away the right to justice?

Kirsty Thomson: It will take away the tools that lawyers have to assist individuals and hold authorities and the Government to account. Certainly, our members are very worried about the current state of affairs and are very clear that the situation will only become worse if our tools for providing direct support and accountability are taken away.

11:15

The Convener: Yes—no recourse to public funds and no recourse to justice.

Robina Qureshi: Given that Theresa May presided over the situation with the 100,000 unopened letters as Home Secretary in 2010 or 2012, I just wonder how many thousands of letters are lying unopened in Downing Street.

David Bradwell: I can send the committee the decision of the European Committee of Social Rights that I mentioned earlier. I also have a short comment piece about those matters from Nils Muižnieks, the Council of Europe's Commissioner for Human Rights, that might also give a bit of context.

The Convener: Time is tight for this meeting because members have to attend general

questions in the chamber on a Thursday morning. However, we try to get the best oral evidence as quickly as we can during these meetings. We also have lots of excellent written evidence, and we thank the witnesses for that. Following the meeting, if you have further information that you would like to give to the committee, please let us know. No doubt our clerks will be in touch with all of you as the inquiry continues. We have invited the UK immigration minister to a committee meeting. That invitation has not been accepted, but we are still pushing for it. The inquiry will continue for the next few weeks anyway and we will take more evidence for it.

We thank the witnesses for coming along this morning. As I said, let us know if you have any further information that you think would help the committee's inquiry, especially if you have recommendations. We are looking for a sharp, pointed couple of sentences along the lines of, "This would fix that," or, "That would fix this." We would be keen to hear from you if you have recommendations. Again, thank you so much for coming this morning; we really appreciate it.

11:17

Meeting continued in private until 11:30.

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