



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities and Human Rights Committee

Thursday 30 March 2017

Session 5



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Pàrlamaid na h-Alba

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EQUALITIES AND HUMAN RIGHTS COMMITTEE

9th 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:

Natalia Jane Farmer (Asylum Seeker Housing Project)

Susanne Millar (Glasgow City Health and Social Care Partnership)

Derek Mitchell (Convention of Scottish Local Authorities)

Chief Inspector Alastair Muir (Police Scotland)

Olivia Ndoti (Asylum Seeker Housing Project)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament
Equalities and Human Rights
Committee

Thursday 30 March 2017

[The Convener opened the meeting at 10:19]

Decision on Taking Business in
Private

The Convener (Christina McKelvie): Good morning everyone, and welcome to the ninth meeting in 2017 of the Equalities and Human Rights Committee. I make the usual request for mobile phones to be switched off or put into flight mode. We have received apologies this morning from our colleagues Alex Cole-Hamilton and Annie Wells.

Agenda item 1 is a decision on whether to take in private agenda item 4, which is our discussion of the evidence that we will hear. Do members agree to take item 4 in private?

Members *indicated agreement.*

Destitution, Asylum and Insecure
Immigration Status

10:20

The Convener: Agenda item 2 is our on-going inquiry into destitution, asylum and insecure immigration status in Scotland. We had an informal briefing earlier this morning from some people who are involved in the healthcare sector and the support and social care sector, and we are happy to take more evidence on the record for our inquiry.

I welcome our witnesses, who are Susanne Millar, the chief officer for strategy, planning and commissioning in Glasgow city health and social care partnership; Alastair Muir, a chief inspector in Police Scotland; Derek Mitchell, chief officer in the Convention of Scottish Local Authorities strategic migration partnership; and, from the Asylum Seeker Housing Project, Natalia Jane Farmer, social work researcher, and Olivia Ndoti, service user.

I thank you for coming along this morning and for the written evidence that some of you have provided. Our inquiry has been on-going for a few weeks and we are keen to hear from you this morning. To begin, perhaps Natalia Jane Farmer can tell us a bit about the ASH project and the work that she is doing with Olivia Ndoti. After that, we can hear from the representatives of the statutory organisations about the work that they do.

Natalia Jane Farmer (Asylum Seeker Housing Project): I am a social work researcher at Glasgow Caledonian University and my research is located at the Asylum Seeker Housing Project, which was set up in 2014 in response to growing concerns about the Serco asylum accommodation. During my time researching at ASH, I have focused a lot on people with no recourse to public funds and their interactions with social services and the local authority. That has involved me in accompanying people as they go through the assessment process and attending numerous social work meetings. In particular, my involvement with Olivia Ndoti since June last year has been about a quite gruelling fight to secure her housing accommodation and appropriate financial support.

There are numerous issues, and we are grateful to be here to highlight some of the issues that we have faced and some of the issues that my research has flagged up.

The Convener: Thank you, Natalia. Olivia, you and I know have got to know each other quite well over the past few years and I know of some of

your journey. If you are able to, can you tell us about your journey and where you are now, and about some of the issues that you have come across and the support that you have had?

Olivia Ndoti (Asylum Seeker Housing Project): My journey has been mainly about getting involved with the community and doing volunteering work with the community. I think that inhumane treatment pushes people to do things that they never thought that they would end up doing in life. The story of my journey has been covered before, but basically it involved leaving my country with nothing and then living with my baby on a budget of £25 a week, or £50 a fortnight, which is very hard. That money is just for the baby and not for me. Thankfully, we were finally offered accommodation on 23 January. However, I have had to go through many things with social work. Trying to access accommodation as someone with a baby has been very disturbing for me, and it has been disturbing for other mothers I have seen.

Right now, I am still actively volunteering. I am standing in a strong position now because of being involved with different community networks and agencies, which also helps me to support other women. That is why I am so strong for myself as well. I now have knowledge about where I need to go for support. I hope that you can understand my English. That has helped me to speak up for myself.

That is why I am still standing, and the baby is healthy, thankfully. I have just finished a check-up with the doctors and he is okay—I have passed that with the doctors. However, it is a disturbing factor to know that I am still on a budget of £25 a week with a baby. He is actually now a British citizen because of his father, and he has his British passport. Because of the barriers, we cannot access anything else.

The Convener: The committee has been really interested in people who have been through the system and found themselves in a situation of destitution in which they have had no recourse to public funds and no statutory support. They have sought support from friends, charities and other organisations. I know that you have experienced some of that destitution and you have had to seek that support. Can you tell us a wee bit about how you came through that?

Olivia Ndoti: I came through that by being in the network and in the community. There is always someone supporting you. You have to go and make inquiries about what support you can get, but even if you make inquiries about getting extra support from the Home Office, you can be told that you are not entitled to that support. I have been lucky in that I have had help from Positive Action in Housing, which goes the extra mile and asks for

support from people who have a spare room in their house. Even before the baby came, I was accommodated by very good people, including doctors and lawyers, in their houses. I have accessed the food banks, and the charity has been there to support me as well.

That went on until I was pregnant. I even missed out on the maternity grant. I had nothing but support from the community and charity organisations, and I squeezed into my same clothes, which were size 12. I had to wear stretchy clothes because I could not buy extra maternity clothes. I tried to access that money, but it was not accessible. Even with the referrals that I had through to social work for extra support for whatever I needed, I never got that. Even when the baby came, it was really hard work to go through that and to fight my way through. I am still not impressed with the support that I am getting now.

The Convener: How did that experience affect you, Olivia?

Olivia Ndoti: My mum—may she rest in peace, being in heaven—was a diplomat and a very strong woman. I look at the work that she did when we were growing up, and every time I have tried to cry, alone in the room, I have felt like there was a voice telling me, “I raised you better than that—dry your tears.” You have got to speak to someone. That is really how I kept on.

My other campaign was going around, knocking on every organisation’s doors, making phone calls and sending emails through my MSPs, my MP and organisations just to get an answer as to why I was going through these experiences even when I had explained my situation. I am not an illegal immigrant. I have been granted temporary leave to remain by the Home Office, so why can I not get even just a little bit of support? It has never happened.

It has just been myself. I cannot explain how I felt. Maybe for an hour, I just covered myself with a blanket, but then I got up, washed my face and read a book that inspired me to say that I could do something if I just stayed strong. I have never had thoughts of wanting to kill myself, or suicidal thoughts, because as a Christian I have always believed that that is wrong. That has given me strength for my fight as well. I just thought that it was not worth leaving.

Most of the time, I thought, “This is not what everybody else goes through.” When I became pregnant, I became worse off as well, and having a partner who was quite abusive, I thought, “Maybe it’s because of my immigration status—that’s why this person is taking advantage of my situation.” I still did not get support despite what I went through with the domestic abuse. I found

myself still fighting for my life—fighting to stay alive and stay awake. I did not know when my life was going to end. I cannot believe that I am still here. That is my miracle. With the things that I have gone through out there, on the streets, I cannot believe that I am still here.

The Convener: We are very glad that you are here to share your story with us. As you say, you are still standing.

Olivia Ndoti: Yes.

10:30

The Convener: I will move on, but my colleagues may ask you some more questions.

Last week, the committee heard from one of Derek Mitchell's Convention of Scottish Local Authorities colleagues, who explained some aspects of the work that he does. Derek, your work is slightly different—can you give us a wee overview and elaborate on it a little?

Derek Mitchell (Convention of Scottish Local Authorities): Yes. Andrew Morrison's specific tasks and responsibilities in the team focus on asylum and refugee issues, and he plays a leading role in Syrian resettlement. My job is a wider role that involves managing all issues. We deal with corporate issues for local government and COSLA that flow from equalities and human rights.

As Andrew Morrison said last week, our work has, over the past year or two, focused increasingly on asylum and refugee issues. We play a central co-ordinating role for all 32 councils in relation to Syrian resettlement. Another 201 Syrian refugees arrived a couple of weeks ago on a charter flight, and they have moved pretty seamlessly into communities in 14 different local authority areas, which is great. More than 1,600 Syrian refugees have come in since the start of the process.

We also deal with issues that flow from unaccompanied asylum-seeking children, the Lord Dubs amendment and everything around that. We have acted as a liaison between the 31 other councils outwith Glasgow and the Home Office on the potential for widening asylum dispersal over a period of time.

The committee will want to address various issues in its inquiry. However, as Andrew Morrison said—and we make no bones about this—the single biggest factor is that hundreds of millions of pounds are being taken out of communities the length and breadth of Britain, and the money for the asylum contract is just not there. In the past, when Glasgow City Council ran the contract, it provided a range of wraparound services. It was not funded to do so—the contract provided for funding on a per-person, per-night basis, but it

provided those wraparound services anyway. Glasgow became a more cosmopolitan city, moving away from the image that people had of it 20 years ago. It is now a modern European city, and asylum dispersal played a large part in that, but those resources are not there any longer.

What we see is an asylum system that is fractured beyond repair. The United Kingdom Government's position—this is not a party-political point; successive UK Governments did the same—is to use destitution as a policy tool. As a consequence, there is a cost shunt from national Government to local government and the third sector, which is what we are seeing now. Unfortunately, given the direction of travel, that will only get worse. There are now processes in place for implementing the Immigration Act 2016. When that happens, things will get worse. Local government services are already stretched, and they will be stretched even further.

The Convener: We know that immigration is reserved and is not a matter for this Parliament. However, all the devolved services in Scotland—health, housing, social care, advice services and the civic and charity sector—pick up the pieces, and they seem to be doing more of that work now. You are absolutely right—we are going to shine a bright light on all that. Some folk will not like it, but we are keen to go ahead and do it anyway.

I will come to Susanne Millar next. Derek Mitchell has given us an overview of what COSLA does across 31 local authorities. Glasgow has always been a major dispersal area. We are concerned about what happens when dispersal is widened and how we will deal with that.

Some witnesses at the committee last week talked about the Syrian resettlement scheme and how it has been a gold standard in treating people with humanity, compassion and dignity and in providing the right services at the right time to allow for seamless integration and acceptance from local communities. When I was involved with the Glasgow campaign to welcome refugees all those years ago, there was a big issue around communities not being prepared, which caused some problems. The Syrian resettlement programme seems to be a gold standard, but there are also all the other programmes.

Susanne Millar's local authority has been at the forefront of such work for 20-odd years now. We are keen to find out where you think you make a difference, the differences between how one scheme works as opposed to how all the other versions of asylum support work—or not, in some cases—and how that can inform the work that we need to do. We are putting a lot of focus on what you do, so we expect a lot from you this morning. We hope that you can facilitate that.

Susanne Millar (Glasgow City Health and Social Care Partnership): Thank you, convener. It is difficult to squeeze in all those issues. As well as having the title that you read out, I am chief social work officer for the city of Glasgow; I have been involved in asylum and refugee work in the city for the past eight years.

You are right: our refugee and asylum work really started when we met the first air ambulance from Kosovo. From then to where we are now, our city has been transformed, and our best practice in how we work with people who are seeking asylum and people who have refugee status has been transformed. We have learned a lot over the period. We have got some things wrong, and we have put some things right, having learned lessons. That puts us in a position of expertise in and experience of best practice in refugee and asylum work in Scotland in particular, but also probably in the United Kingdom.

We work really closely with colleagues in the Convention of Scottish Local Authorities. I have two children in schools in Glasgow. The black and minority ethnic population in our schools in Glasgow is now 18 per cent. When I started working as a social worker in Glasgow a number of years ago, it was 3.2 per cent. The transformation in our young people's experience in our schools has enriched the experience of all Glaswegians, and I am particularly proud of what we have managed to achieve, but I am not complacent, because we can always continue to learn. We need to ensure that our practice is among the best.

On where we are now, Derek Mitchell was quite right. When the council held the contract, it was for accommodation and support, and we were really clear that integration in particular—how to work with local communities in Glasgow and how best to support asylum seekers and refugees—was to be done through that support mechanism. Therefore, it was really important that people had links to local schools, communities and general practitioners. We have had good links, which continue, with colleagues in Police Scotland. In our experience, the support is at least as important as the accommodation.

One of the deficits in the current contract is that it has, essentially, become an accommodation contract; that support element has been lost, which means that the experience of asylum seekers in the city of Glasgow is now different from what it would have been when the local authority held the contract, with the store that we set by support. We work with accommodation providers and the Home Office to try to mitigate that loss and ensure that, when people get status, they are known to us as soon as possible. We have continued to keep specialist teams, so we

still have in our homelessness service an asylum and refugee team with asylum and refugee experience—in fact, the team leader met the plane from Kosovo. There is real length and depth of experience in that team. We have continued to ring fence that provision, because we recognise that people in the refugee population have particular needs once they get that status.

We are working with the registered social landlord sector in Glasgow, because one of the lessons that we are learning is that the homelessness route is perhaps not the best way of looking for permanent accommodation. There is on-going learning about how we work with refugees once they get that status.

We have had to pick up issues to do with connections into communities and into local health and education services that we would not have seen in the past when we had the contract. Even although some of the refugees with whom we work have been in Glasgow for a long time, we still have to work with them on that support, because it has not been around. That has changed for us.

We have had in the city for the past nine years a specialist team on unaccompanied asylum seeking, and we currently have a caseload of 147 unaccompanied asylum-seeking children in the city. We see young people presenting in Glasgow weekly, and we have, through COSLA, engaged specifically with young people who were in the Calais camp. In November last year, we took 19 young women from France. We offered more places—up to 35—but 19 young women arrived.

The specialist team has significant experience of working with that group of young people. At this point, we are halfway through the development of a new scheme of finding carers for unaccompanied 16 and 17-year-olds. Through faith communities and the third sector, specifically Positive Action in Housing, we have identified a group of 85 families who have expressed an interest in offering accommodation and support to an unaccompanied asylum-seeking young person. We are about two thirds of the way through assessments for that. That has not been tried anywhere else in the United Kingdom. Scottish Government colleagues are particularly interested in the scheme, so we have worked with Derek Mitchell and his team to keep up to date with other local authorities that are interested in what we are doing.

That initiative comes partly from our experience of working with refugees. In essence, it is giving the local community in Glasgow an opportunity to offer something practical. When we held information sessions, we got a really strong sense from Glaswegians that they need to do something practical to offer an alternative to the rhetoric on asylum seekers and refugees—even with some of

the images from the Calais camp. We have given people that opportunity to do something practical. We expect to be able to offer family-based placements from the end of April or the beginning of May. We will match young people to families and continue to offer support. The young people will still be looked-after children, so they will still have an allocated social worker and work with the guardianship project.

Destitution and insecure immigration status, which are the committee's focus, have long been difficult issues for us in Glasgow partly because, as a city and a country, we have been so successful at holding on to people once they have received a negative decision. We have very experienced lawyers working for Glasgow City Council who have, because they have experience from when we first took asylum seekers, developed real expertise on the legal situation. We also have on our website policy guidance for staff on the legal situation: we have attempted to give support to our staff to work their way through the legal system. Our chief solicitor has written advice on that for the Society of Local Authority Lawyers and Administrators in Scotland.

Our current position is that we assess families with dependent children in particular on a case-by-case basis. We are clear that, if the only issue is destitution, the Children (Scotland) Act 1995 means that it is not appropriate to accommodate those children in care. Contrary to some of the evidence that you have heard, that is clear in our guidance, which is public. I am happy to share that guidance with the committee for its inquiry.

We are not trained in the human rights assessment for people who have no recourse to public funds. The legal view is that our getting it right for every child assessment is, in essence, our human rights assessment for children and families because it stems from the legislation on children and young people that is based on the United Nations Convention on the Rights of the Child. If a GIRFEC assessment, which we have to have, determines that the children are best looked after in their own family, we offer support to the family with accommodation and subsistence.

In the year to date, we have offered support to 31 families in Glasgow. As you can imagine, that has had a significant cost. Glasgow City Council is not, to add a further complication, a housing authority: we cannot house people who have no recourse to public funds in our own housing because we do not have any. Therefore, we have had to use temporary furnished accommodation or private lets, because it is not possible to take a Scottish assured tenancy through the RSL sector for people who have no recourse to public funds. We have significant accommodation costs in relation to that. We ensure that the situation of

those families continues to be reviewed throughout their time with us.

For adults, the situation is slightly trickier. We use community care legislation and if, through an assessment of need, we find that an adult has needs beyond destitution, we offer support and subsistence. In the year to date, we have offered that kind of support to five adults.

10:45

We have in the population a significant cohort of unaccompanied asylum-seeking children whose appeal rights have been exhausted and who have no recourse to public funds. We take the view—it has not yet been challenged so we do not know whether it is legally competent—that those young people are care leavers and should be treated as such. That now applies to people up to the age of 26 under the legislation in Scotland, which is different from the legislation in England and Wales. The support that we offer to young unaccompanied asylum-seeking children is equivalent to the support that we offer to care leavers, so it includes access to section 29 grants for independent living.

Glasgow has a much larger cohort of those young people than there is anywhere else in Scotland. Our success rate—I would call it that—for young people getting a positive decision is about 50 per cent, whereas I think that it is about 30 per cent for the rest of the UK.

Derek Mitchell: I think that the most recent figure is 24 per cent for the rest of the UK.

Susanne Millar: So, working with colleagues in the third sector, we are particularly successful at getting positive decisions. For our current case load of 147, roughly 50 per cent are likely to get to a position where they are not supported, and the cost will then come to the local authority.

As I said, our position on offering support is clearly laid out for our staff. The final decision is mine, as chief social work officer. Our position is that it is a professional decision that is made in the interests of children or vulnerable adults who have no recourse to public funds. The costs then fall on us as a local authority. We have not yet been challenged on that in court. Our lawyers are clear that we have a defensible position, although they are not clear that we have a legally competent position. We have been quite up-front about that and we have had support from across our council, so it is not a political point. We have full cross-party support for that policy position.

I apologise, because that was probably more than my one minute, but there was quite a lot to squeeze in.

The Convener: There is a lot to investigate and a lot to hear about. Thank you.

We will ask questions once we have heard from Alastair Muir, who has a unique position in all this because he has to strike a balance between helping asylum seekers and refugees to feel safe, when they have perhaps come from countries where the police were not safe, and helping communities to feel safe, as well. Obviously, some people are caught in the middle of that and find themselves homeless and sleeping rough, and they might be exploited and vulnerable to trafficking or other exploitation, or might find themselves going down the route of criminality in order to survive. You have to strike a very fine balance in caring for individuals and exercising the law. We are keen to hear how you do that.

Chief Inspector Alastair Muir (Police Scotland): Law enforcement fully understands that people who fall into the sort of circumstances that we have heard about from Olivia Ndoti become vulnerable to others. There is the old adage that, if society is not engaging with individuals, criminality will. Criminals will think about that if certain individuals are not being cared for, so we certainly need to be alive to that.

I canvassed a lot of my colleagues from different departments to ask what we know about destitution, asylum and insecure immigration status. Not many people are actually categorised as such. We have different categories for people in our systems, so I would say that this is an emerging issue for policing. That does not mean that we are unaware of it by any means, but we need to use analytical tools to look at it in greater detail.

We are a national police force, which gives us a great strength because we can train officers who work in communities across Scotland, which is at the heart of policing. In relation to the Syrian vulnerable persons relocation scheme, we have been able to train officers in our 13 divisions across the country and elsewhere on the background to those individuals and how to deal with them. As you suggested convener, those people have come from a place where law enforcement is distrusted, to say the least. How do we break down that barrier and possibly move into a situation in which there is trust? We have been working with our colleagues in COSLA and in Glasgow City Council. As we have heard, police officers in Glasgow have gained a lot of experience on that.

I and other officers in Glasgow work weekly with refugees and asylum seekers, and although we certainly do not know it all, we understand some of the issues, whether they are related to lack of finance or accommodation or to mental health. Police Scotland is a learning organisation—we are

working towards that. We have embedded officers who deliver additional training in English as a second language classes. We are working towards making the situation safer for people.

Mary Fee (West Scotland) (Lab): I will start by asking Derek Mitchell a question. In the past few weeks of evidence, we have heard two almost completely different views. I see that you are smiling, so you probably know what I am going to ask you.

The Scottish Refugee Council came along and gave us freedom of information request responses that it had received from local authorities on the knowledge and information that the authorities had about, in particular, people who had no recourse to public funds. Quite frankly, I say that the responses were shocking in respect of lack of knowledge and information and lack of work on the ground.

COSLA then came along last week and basically told us that it has in place a wonderful process, that there is good partnership working, that it all filtered down, and that there is guidance that local authorities know about. COSLA was, to be frank, surprised by the responses that the Scottish Refugee Council had received, as though perhaps the SRC had asked the wrong questions or the wrong person had answered them.

Somewhere in between those is the truth. I do not mean to put you on the spot, but I am keen to hear your view on that and on how you think that, whatever the issue is, it can be solved?

Derek Mitchell: I heard with interest what the Scottish Refugee Council said. As I think Andrew Morrison said last week, we are a partner of the Government and the Scottish Refugee Council in the new Scottish strategy. I would never have anticipated that a partner organisation would dip its toe in and out of that whenever it suits it. If the Scottish Refugee Council came to us, it would see that we have a no recourse to public funds group, which met yesterday in our offices.

A number of local authorities are working on the issue. Is the level of knowledge and information that local authorities have up and down the country uniform? No. Will a social worker who is approached only once every six months by people who have no recourse to public funds have the same level of knowledge that social work staff in Glasgow and Edinburgh have? No. Is there work to do on that? Yes. We did a piece of work some time ago, which the Scottish Government funded, that gave a strategic overview of the issues that local authorities need to take into account in this area of work.

An FOI request gives an answer to specific points that are raised. It was not just COSLA but local authorities last week that said that there is an

issue of use of language around human rights assessments, destitution and the situation of having no recourse to public funds. In essence, social work staff do not come into the profession to refuse people services, so local authorities have developed practice that allows them to look at the situations that people present with and the legal implications, and to make decisions based on that. Are all the decisions correct? Absolutely not. Is there work to be done around that? Yes. We do not have any funding to refresh that guidance.

However, although I fully accept that you say that we say one thing and others say another, I am not convinced that the level of knowledge in local authorities is as poor as is suggested by what has been presented to this inquiry—it is nowhere near it.

Mary Fee: The Scottish Refugee Council's view was that the guidance needs urgently to be updated, and that it needs to be updated with the work and co-operation of all the partners who feed in and work together. I accept that you are saying that you do not have the resources to upgrade that guidance. Is it just about money? Is there some other way that it could be updated?

Derek Mitchell: The issue with guidance around people having no recourse to public funds is that it changes almost daily. The legislation, the expectations of local government and statutory obligations change regularly. When the guidance was first published, we hoped that we would be able to go back and refresh it regularly, but we have not been able to do that. Resources are a big issue.

I am not convinced that having a room full of people will add hugely to the information that local authorities require in order to make decisions. The problem is people having no recourse to public funds. When Susanne Millar spoke earlier, and when Sean Bell, Alan McKeown and others spoke last week, about local authorities providing services to people who have no recourse to public funds, by "public funds" they mean housing benefit, tax credits and the Scottish welfare fund—all the things that local authorities cannot access. When local authorities provide accommodation—whether it is their own accommodation or private sector accommodation—for people with no recourse to public funds, the local authorities pay for that service.

As the convener said, we are talking about a range of devolved services. It is not my job to say which level of government should pick up the tab, but local authorities seem to be getting a lot of criticism for not doing enough for people, although they are actually doing quite a lot. The cards are not stacked in their favour.

Mary Fee: The local authorities are there to pick up the pieces.

Derek Mitchell: Absolutely, and that run of costs is continuing with the Immigration Act 2016, so the situation will only get worse. Local government, with diminishing resources, is faced with really difficult decisions about what to do. In the main, it does a pretty good job.

The Convener: I want to bring in Natalia Jane Farmer.

Your research is probably an independent eye on all these organisations and the work that they do, so perhaps you can respond to Mary Fee's question.

Natalia Jane Farmer: I have been pursuing the issue since June and have been supporting Olivia Ndoti since then. My biggest concern is the gatekeeping around the support by local authorities. I have sat through the meetings and have seen how the assessment process has been implemented, and that has been of huge concern to me.

The guidance is here. A brilliant report was published in 2012: "Establishing Migrants' Access to Benefits and Local Authority Services in Scotland". On the policy of no recourse to public funds, it is made clear on page 6 that social services are not a public fund when it comes to section 22 of the Children (Scotland) Act 1995 and supporting children. All children, regardless of their parents' immigration status, should be provided with adequate housing and financial assistance. However, in the time that I have spent with Olivia, it has been extremely difficult even to get a proper assessment although I have advocated for that. It has been stated that there is a policy of no recourse to public funds, but the GIRFEC assessment does not cover that area and it has definitely not been sufficient. Olivia had to wait seven months for housing, during which time she had to rely on Positive Action in Housing and networks in the community, even though it is not their legal responsibility to provide such assistance—there is a clear legal duty on local authorities.

In the assessment meetings, I have been disturbed by how Olivia has been spoken to, even with me there as an advocate. She has been called an illegal immigrant in meetings, which I have found highly disturbing and inappropriate. Olivia has an IS96 form and is not in the UK unlawfully. That sets a really destructive tone. In addition, social work should take a human rights perspective, but I have found that it has been taking more of a Home Office immigration perspective, which is not really social work's remit. I have found that disturbing. Inaccurate information has been given, as well. When I have

taken legal documentation regarding the policy of no recourse to public funds, I have been told that Olivia cannot be accommodated because she has no recourse to public funds even though she is actually entitled to be accommodated.

The way that I have been spoken to in meetings has been quite intimidating, too. I have been challenged and asked whether I know what my role is as an advocate. It has been a gruelling time, not just in relation to Olivia but in other cases in which I have had to challenge the local authority—especially over bed and breakfast accommodation. The only time that people have been granted accommodation and financial support is when judicial review has been threatened. In my opinion, it should not get to that point.

Those are the issues that we have been facing at ASH and that I have seen in my research. I have also seen threats to remove children. We can accompany the children but not the family. I gather that it is very difficult when there are other child protection issues but, when destitution is the only issue, that should be the last resort with regard to the best interests of the child—plus, it is unlawful.

I advocate an accompanying scheme, because when people go to social work meetings, they need an advocate with them. Even then, it is very difficult.

11:00

Mary Fee: That was a helpful explanation.

I appreciate that time is tight and that colleagues might want to come in, but I have a quick question for Alastair Muir. Could you explain in practical terms what an officer would do if they came across someone on the street who was dipping in and out of homelessness, who was vulnerable because they were an asylum seeker or who had been sleeping on the streets for years? How would the officer make the differentiation? What organisations would they signpost the person to and how quickly would that be done?

Chief Inspector Muir: That is quite a complex question. For any individual whom we have to check out, we check our documented police systems. In our systems at the moment, the Home Office designation of individuals is quite crude, so if anybody comes under the immigration status, we contact the Home Office Border Agency. We signpost to the Border Agency when it comes to an individual's status; in that regard, we are an agency of what its systems tell us.

If an individual is taken into custody or if we do a welfare check on them, we are aware through local knowledge—I am talking about Glasgow

here—of lots of support groups and night shelters that are available, and we have recourse to our colleagues in the city council. There are a host of organisations that are there to support individuals and we pass on the details of different organisations to those individuals.

Jeremy Balfour (Lothian) (Con): I have two questions on two different areas. I would like to follow up on Mary Fee's point with Susanne Millar.

We are hearing clearly in oral and written evidence that even with the best policies and the advice of the best lawyers in the world, when someone comes face to face with a social worker or a member of Susanne Millar's team, they have a very negative and perhaps illegal response on the first, second and third occasions. Those might be exceptions—I suspect not—but that is the evidence that we have received.

Why are Glasgow City Council's great policies, procedures and documents not getting down to the local social work office or the local social worker who is dealing with people? I saw Susanne Millar shaking her head quite vigorously when we heard that, but the evidence that we are hearing is that that is the reality. Why is that happening?

Susanne Millar: I was shaking my head. I would not expect to come to a public inquiry and talk about individual cases, as that is not appropriate for me as a professional.

Jeremy Balfour: I am talking about lots of cases.

Susanne Millar: That was in response to the discussion. I would not talk about individual cases.

As chief social work officer, my concern about some of the evidence that has been presented to you is that it is the first time that I have heard about it. There is a clear escalation process for our third sector partners in Glasgow when it comes to our hierarchy in relation to children and families. There is a social worker, a team leader, a service manager, the head of children's services, then me and then our director. I would not expect to hear about poor practice—which it is—at a public inquiry; I would expect people to raise that with us, and I am disappointed that that has not happened.

With regard to the 31 families, if you want a positive response about their experience over the past year from the 31 families—or from the hundreds of families whom we have supported over the past 10 years—I am sure that I can find that for you. By definition, what you will hear at an inquiry is what has gone wrong. I was not asked to provide examples of where we have implemented our policy appropriately and in accordance with best practice.

As chief social work officer, I would never defend poor practice. What you have heard about

is poor practice, but I would not expect to be defending it for the first time at a public inquiry. I am clear that some of the evidence that you have been presented with is evidence of poor practice. I would have expected that third sector partners would have done me the courtesy of allowing me to deal with that prior to coming to a public inquiry, but I have not been given that opportunity. I do not believe that the evidence that you have heard tells the full story. If you were looking for evidence of where things have gone well, I would be happy to go back to Glasgow and find that information for you.

Jeremy Balfour: That is not a particularly satisfactory answer. You have given a very procedural response. I am not asking you to comment on specific cases, but do you accept that there is an on-going issue in Glasgow, where people's experience, particularly with children, is that they have been denied their legal rights? Do you accept that that is going on, or are you saying that everything is wonderful in Glasgow?

Susanne Millar: I said quite clearly that some of the evidence that you have heard is evidence of poor practice. That is not procedural. That is my professional opinion as chief social work officer, and I would never be in a position of defending poor practice. What I am saying is that the evidence that has been put in front of you does not amount to evidence of systemic failures in relation to how we respond to people who are destitute. It is an extremely complex area. We have legal advice that is contrary to some of the advice that has been given to the third sector. As a public servant, I have to follow my own legal advice, not legal advice from the third sector.

There is not necessarily a consensus about what is legally competent. That said, we are currently acting beyond what our own lawyers believe to be legally competent, so my response is that I do not believe that the evidence that you have heard is evidence of systemic failure. I believe that it is evidence of poor practice in individual cases, which I would not defend. I would have expected to be given the opportunity to deal with that elsewhere.

The Convener: To be absolutely honest with you, we have met a number of families and individuals over the past few weeks who, in my opinion, have been badly treated by the system as a whole. Those will obviously be the people who are in the worst situation, because it is always people in crisis who come to politicians, so we understand that we might be getting the most negative views.

We are attempting to find out whether those people's crisis situations have come about because of a policy decision or a local decision, or as a result of one specific social worker making

decisions that create a culture of bad practice. The big worry for us, if there is a culture of negative or bad practice—however small—is that that bad practice might get shared and might travel Scotland-wide. We are not expecting you to answer personally for any of the evidence that we have heard. We are trying to get to the bottom of whether it is a systemic problem, a local problem or just something to do with a local office that is overwhelmed by the number of cases that are coming through the door. We understand and accept that.

David Torrance (Kirkcaldy) (SNP): I want to follow up on what Mary Fee said about local authorities. Glasgow City Council has a wealth of experience in dealing with asylum seekers and refugees compared with other local authorities in Scotland. How good is your best practice? I know from previous experience that local authorities seldom communicate with one another about best practice.

Derek Mitchell: I would not disagree with your experience. On world and humanitarian protection, we work with 32 councils and have a Syrian resettlement group that involves all 32 councils and meets every six weeks. We have an unaccompanied asylum-seeking children working group that meets timeously, and a no recourse to public funds network in Scotland that involves a number of authorities, and we are trying to encourage more authorities to come along because of some of the issues that we are aware have been raised. We have used the experience of the bigger cities—primarily Glasgow, but also Edinburgh—and we have a knowledge hub for information that allows somebody to post a question in Aberdeen in the morning and somebody from Dumfries, Glasgow or Edinburgh to answer it the same day, so that scarce resources are used in the best way possible and without duplication of effort.

Across the range of humanitarian issues, there is a collegiate and collaborative way of working among all the local authorities. That might be exceptional, but it happens. Other public bodies such as the police and others that are part of those structures would agree that that is in place.

The Convener: We heard a bit about the no recourse to public funds network last week, but we have had evidence since then to suggest that it has not met for two years. Is that correct?

Derek Mitchell: The network met yesterday. I am not sure who gave you the evidence that—

The Convener: Was that the first time in two years that it had met?

Derek Mitchell: No. I am not sure who gave you the evidence that it did not meet for two years, but the point is about—I am sorry to come back to

this—the resourcing issue. I had a staff member who was tasked with doing this piece of work. When we then got the humanitarian crisis in France—in Calais—and everything else that happened, some things needed to be set to one side. It is not because of the committee's inquiry meeting that the network met yesterday, but it did meet yesterday and it will continue to meet. The no recourse to public funds co-ordinator for the UK, who is based in Islington, came up to that meeting as well. We share best practice.

Again, I come back to what others have said: we are not saying that things are perfect, or that practice is uniform throughout Scotland—we would like to reach that point. We now have a situation where 31 out of 32 local authorities have Syrian refugees in their communities. I think that the convener touched on the fact that that scheme provides five-year consistency of funding and a level of funding that allows local authorities, for the first time, to build up a bit of an infrastructure and a bit of a knowledge base around how they are doing things.

We think that the direction of travel for us is a positive one in terms of how local government will respond to these issues. However, to get back to the previous point, if a Syrian asylum seeker comes into a local authority area through dispersal, they will get put into a house, which will be inspected once a month, and they will be given a phone number in Dover for migrant help. On the other hand, if a Syrian refugee comes in through the resettlement programme, local authorities and their third sector partners are involved in the daily lives of these people—that inclusive approach is how we want to work with everybody.

The Convener: There is a clear comparison in the evidence that we have had between the Syrian resettlement scheme and the other situation. A man from Aleppo who made his way across Europe, for instance, and has managed to get here through whatever means could be treated very differently from someone who has arrived through the resettlement scheme. From a human rights point of view and that of the committee's remit, that is very concerning—although I do not want to take away from the work that is being done.

Willie Coffey wants to come in. We are really up against the time limit now.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): Hello, everyone. Being on this committee and having this particular inquiry has been quite an experience for me and my colleagues. We have heard so much evidence over the weeks and it has been pretty harrowing. We have had evidence provided in writing, evidence provided in private, and evidence heard at the committee. We have heard from several witnesses that the

immigration system is causing many of the problems. In his opening remarks, Derek Mitchell said that the asylum system is fractured beyond repair.

We are hearing stories from people on the ground that there seems to be a battle going on with the system at every level to stop this treatment of people—this inhumanity that is being meted out to ordinary citizens whom we should be doing our best to help.

We understand that you guys are often in the situation of picking up the pieces. We respect that and we empathise. However, we want to get to the root cause of why ordinary people, many of them with children, are being treated in this disgraceful manner. We do not want to be listening to stories that show that the system is fighting with itself over bits of legislation.

Why on earth has the element of humanity not been put into this—the attitude that we should first and foremost look after people and their children and worry about the legislation, the problems and the guidelines thereafter? Do we need to do something radically different here to get a system in place—either in the UK or in Scotland or both, I do not really care—that stops such treatment of ordinary people and their children and ensures that a more humane approach is taken in looking after people who need our help?

Susanne Millar: We have tried to pick our way through the legislation and it is entirely counterintuitive. I remember being at a cross-party meeting with our local elected members. They felt that we must be able to do more than we are currently doing. They were really taken aback by the briefing from our lawyers—who are taking some risks, they are clear about that—that the primary immigration legislation in the UK says, in essence, that local authorities should ignore people who are in this position with no recourse to public funds.

We have had to find ways round that primary legislation, particularly by using the human rights argument. We have not had a challenge in Scotland. Our public position, on our website, on how we deal with the situation, using the Children (Scotland) Act 1995 and the community care legislation, is entirely open to challenge in the courts through judicial review. Our lawyers are prepped and briefed for that, should that day ever come. My big concern is that we cannot make any assumptions in Scotland. We will soon have a different approach in that there will not be a cohort of people who will challenge us on that. There is a fundamental difficulty—I am not sure whether this is political, but I have said it now anyway—with the primary legislation from Westminster, which essentially tells us that people who have no recourse to public funds should be ignored.

11:15

The system is fractured, and part of the reason why relationships are difficult is that we are all trying to find a way round that. If you support people with no recourse to public funds on a daily basis, you have a level of confidence. If you are in a small local authority, where you have dealt with that once in the past five years, the lawyers might tell you that you cannot provide such support because you will be challenged. That experience can mean that there are differences in approach. Fundamentally, that creates a real difficulty in how we manage people who have no recourse to public funds and whether we respond humanely.

Willie Coffey: Can I hear from Derek Mitchell? Surely we do not need anybody's permission to act with compassion and humanity.

Derek Mitchell: Not that I am aware of from the evidence that we get from our local authorities, although somebody might tell me about a successful legal challenge from the third sector regarding a local authority not performing in the way that it should, and not treating people with compassion. As the convener knows, social work staff do not come into work every day not to provide services to people. The committee has been given evidence to help it to form an opinion, and I can understand that, but some of that evidence does not relate to what we see. We see valued and professional social work staff trying to navigate devolved and reserved competencies—and, in the main, doing so skilfully—to try to support people. It comes back to the fact that we have a blunt policy tool of destitution.

As time goes on, the Immigration Act 2016 will increasingly be seen as a tool to further the UK Government's wish that if someone's valid asylum claim is not accepted, or if they are here with no recourse to public funds, life will be made so difficult for them that they will turn back. We have made the point in the past that if any of us had come from Mogadishu and had to choose between sleeping on someone's couch or going back to Mogadishu, we would all make the same choice. Our problem is that there is an overt focus on what local government is or is not doing and no real focus, as far as I can see, on what the UK and Scottish Governments can do. There are a hell of a lot of devolved competencies around this, too. There is no easy answer.

When practice is as bad as the practice that has been presented to the committee, you would normally see legal challenges by the score. I am not aware of any legal challenges and I am not convinced that the practice that local authorities perform daily with very vulnerable people is as bad as it has been painted.

Willie Coffey: You have said a few times that the situation will get worse. How do we prevent that from happening? How do we even attempt to intervene? This is your opportunity. This is a Scottish Parliament committee and we are desperate to hear your evidence and advice. What would it be?

Derek Mitchell: As I said before, it is not a political point. Consecutive UK Governments have used destitution as a policy tool and I do not see that changing in the near future.

In local government, we are basically delivery partners for most of the policy. On the transformation agenda relating to what the next asylum contracts will look like, we can jump up and down and put in our comments and so on, but my cynical view is that the UK Government wants to involve local government in that in future, and that it wants to bring us closer to delivery and get more consistency. It is not about resourcing us to do the job that we all want to do. No one wants to refuse people their services, but there are legal issues around that. The Scottish Government can continue to talk to the UK Government about aspects of the immigration system that are inhumane and do not make sense. However, I return to the point that what we have mainly talked about today is people accessing devolved services, which are the responsibility of the Scottish Government.

The Convener: We are bang out of time. I do not want to close the session without giving Olivia Ndoti a final word. If you could give us one piece of advice on the work that we are taking forward and the recommendations that we can make, what would it be?

Olivia Ndoti: Honestly, if I had a pen right now and was given the chance, I would reverse most of the legislation that has given rise to inhumane treatment. Some human being signed those pieces of legislation. They did not just drop out of nowhere. They are not just paperwork that is dealt with by any Government.

This building is standing because of a good foundation. For a child to grow up well, you are looking at the foundation for their wellbeing and development. Most ethnic minority children are shattered—they are like zombies and cannot even talk properly because of the restrictions and barriers surrounding them. They cannot access most of the things that other local people can access. A lot of things have to be paid for. I cannot access healthy start vouchers because I have no income coming in. That is £3.50 for fruit and vegetables that I have asked for and has not been given to me. My health visitor applied for it and it still came back negative.

If I had that pen, I would say, at least for the benefit of the child, the earliest foundation of a child's development matters and we can start from there. We are all passing on. This is the future generation that we are raising. If we do not pay attention to these little ones growing up, and we go off, how will the world be? There will not be any world—there will be problems and things will never change. We have to focus on the little ones. You can punish me but not the child. I can take the punishment but not the baby, who needs support. That is my final word.

Natalia Jane Farmer: The fight that we are having at the minute is to provide Olivia Ndoti with appropriate financial assistance. Olivia is living on £25 a week for herself and her baby. To me, that is inhumane. In 2014, Glasgow City Council, responding to the inquiry into asylum support, recommended that a family with one child should receive £89 a week. Olivia's assistance is dramatically less than £89 a week. I have tried to advocate for an increase, and we are both really struggling with that gruelling fight at the minute. I would like to end on that point.

The Convener: That is a point well made. We are completely out of time. We could have spent a lot more time with our panel today. We always run out of time because there is so much more that we could talk about.

Thank you for coming along and being so open and candid with us. The subject is not easy. I said that we are shining a light—we are shining it on us all, which will be uncomfortable for most of us, not least the people who are in the situation that we are discussing and are giving evidence to the committee. We are very grateful for your contributions. If you think of something else that we should have discussed or if you want to reinforce anything, please get in touch. There are a few more weeks before we compile our final report and we want that report to be as informed as possible, with as much factual information as possible. Your help with that would be gratefully received.

11:24

Meeting continued in private until 11:38.

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

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