



OFFICIAL REPORT
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Local Government and Communities Committee

Wednesday 16 May 2018

Session 5



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Wednesday 16 May 2018

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
16th Meeting 2018, Session 5

CONVENER

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

DEPUTY CONVENER

Monica Lennon (Central Scotland) (Lab)

COMMITTEE MEMBERS

*Kenneth Gibson (Cunninghame North) (SNP)

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

*Graham Simpson (Central Scotland) (Con)

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

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Brian Peddie (Scottish Government)

Kevin Stewart (Minister for Local Government and Housing)

CLERK TO THE COMMITTEE

Jane Williams

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Local Government and Communities Committee

Wednesday 16 May 2018

[The Convener opened the meeting at 09:45]

Decision on Taking Business in Private

The Convener (Bob Doris): Good morning and welcome to the 16th meeting in 2018 of the Local Government and Communities Committee. I remind everyone present to turn off mobile phones. As meeting papers are provided to members in a digital format, some of us may be using tablets to review our papers.

We have received an apology from Monica Lennon, who unfortunately cannot make it this morning.

Item 1 is to decide whether to take item 7, consideration of the committee's annual report, in private. Is that agreed?

Members *indicated agreement.*

Housing Supply

09:46

The Convener: Under item 2 we will consider progress on housing supply and the "Joint Housing Delivery Plan for Scotland" from 2015 to 2020. The committee will take evidence from Kevin Stewart, the Minister for Local Government and Housing. With the minister are Andrew Mott, head of housing markets, strategy and north programmes in the more homes division; and William Fleming, head of the housing services policy unit; they are both from the Scottish Government. Thank you, gentlemen, for coming along this morning. I invite the minister to make some opening remarks.

The Minister for Local Government and Housing (Kevin Stewart): Good morning, convener, and thank you for the opportunity to come to the committee to update you on progress and inform your future work plan on housing. I hope you have found the papers that were circulated in advance useful and that they might help to frame our discussion.

Paper 1 explains how the joint housing policy and delivery group is approaching delivery of the joint housing delivery plan, which was published in 2015. The paper explains how the JHPDG has evolved its approach, but also how the outcomes identified in the plan continue to be important in shaping its work. It also includes a forward look for future plenary group meetings.

When I first met the JHPDG in November 2016, I encouraged it to be positive and practical. It has taken up that challenge and that has been reflected through discussions ranging from infrastructure to homelessness, from increasing housing supply to welfare reform, and from disabled people's housing to value for money. I would like to take this opportunity to note my appreciation for all the hard work and commitment from members of the JHPDG, especially Tom Barclay, our external co-chair. I and my ministerial colleagues value their contribution to helping us to achieve our ambition for everyone in Scotland to have access to a good-quality, warm and affordable home.

Paper 2 picks out some key milestones that we have already met in 2018, and sets out what we anticipate for the rest of 2018 and looking further ahead into 2019. I am pleased with the Government's progress, and members will be pleased to hear that I will not read you a long list of our achievements right now.

I am, however, not complacent. It has to be said that Scotland's housing system faces a number of challenges, including an ageing population and the

United Kingdom Government's welfare reforms and approach to Brexit. Delivering on our ambitions to tackle homelessness and child poverty is another challenge, as is ensuring that our fire safety and building standards are always fit for purpose. Of course, we must also mitigate the impact of climate change and adapt to its effects, and that is very much on our agenda. We are already working hard to respond to those challenges, and success will require everyone to play their part.

Convener, I hope that that is helpful context as you consider the committee's future work plan.

The Convener: It certainly is. I know that members will want to look at the types of houses that will be built, where they will be built and their affordability. We will come to that, but we will start with the number of houses that are to be built. The commitment is to 50,000 affordable houses and a £3 billion investment during the current parliamentary session. What progress has been made on that?

Kevin Stewart: You are right to point out that we are intent on delivering 50,000 affordable homes, including 35,000 for social rent, during this parliamentary session. That is backed by £3 billion of investment over the piece.

As things stand, we are driving forward with that programme. We have ensured that all local authorities have resource planning assumptions for the next three years to give them the comfort to move forward. More than £756 million is being made available this year for the affordable housing programme.

We are not expecting those 50,000 homes to be split into 10,000 a year. We know that growth will be incremental over the piece. Statistics that were published on 13 March showed that, in the first seven quarters of the programme, which is to December 2017, 11,758 homes had been delivered, equating to almost a quarter, or 24 per cent, of the total number of homes required. That breaks down to 6,874 social completions, 1,464 affordable, mid-market rentals, and 3,420 for low-cost home ownership.

I am not complacent, but I think that that is a strong foundation on which to build, so that we can achieve the target of 50,000 affordable homes.

The Convener: That is helpful, and I know that members will want to look at those figures more closely. A lot of money is being put in and it is all really welcome. If I have got my numbers right, in this financial year, £568 million is going to local authorities, in 2019-20 it will be £591 million, and in 2020-21 it will be £630 million. Those are fantastic figures.

I apologise for focusing on the uncertainty. Those are good figures and the money will drive us towards that target of 50,000 affordable homes. My local authority really welcomes those figures and is enjoying spending the money in partnership with its housing associations and planning ahead. The three-year resource assumptions are fantastic for planning ahead, but what happens after 2020-21? Local authorities and housing associations are building up capacity and headcount in the system. What certainty can you give for beyond 2020-21?

Kevin Stewart: You are right, convener. This year, £568 million will go directly to local authorities. The budget for the affordable housing supply programme is £756 million this year. In 2019-20, £591 million will go to local authorities and, as you said, that will rise to £630 million. That is £1.79 billion over the piece for local authority resource planning assumptions. It is quite unusual for us to be able to give comfort in terms of three-year budgeting.

On looking beyond 2021, at a recent Chartered Institute of Environmental Health conference, the cabinet secretary said that we will talk to partners across the board. She reiterated the point that we will continue to speak to stakeholders as we develop our plans beyond 2021. Work will begin on all that later this year. We hope to be in a position, with the input of stakeholders, to say by the tail end of next year exactly what our plans are for beyond 2021. However, the key thing in all this is gathering the views of stakeholders and partners, as the cabinet secretary pointed out at that CIEH conference.

The Convener: That is helpful. I have a final question, then Mr Wightman will explore the matter further.

I see from my notes that the "Affordable Housing Supply Programme Out-turn Report 2016-17" shows that 14 local authorities spent more than their resource planning assumption budgets, 14 spent less and four spent roughly the same. Is that just about slippage in projects, or do we have to look again at how much money local authorities get?

Kevin Stewart: The Government has made it quite plain and I have made it quite clear, as has the First Minister, that if local authorities are unable to spend up to their resource planning assumption figure, then we will move that money to areas that can spend that money. I would hope that all local authorities would put in place plans to ensure that they can spend the amount of money that has been allocated to them. I recognise that it has been difficult for some areas to reach the point of building up the capacity to deliver, but I hope that there will be improvement in that regard. I recognise that there is a bit more difficulty in some areas in terms of some aspects of delivery. I have

said to local authorities that they should build slippage into their programmes in case they are one of the authorities that ends up getting more money because there has been the inability to spend elsewhere.

We will continue to monitor all that. I know from the many discussions that I have had with housing conveners that they want to ensure that their local authorities do the very best that they can. We will monitor all that, but I think that it would be fair to say that that situation is improving.

Andy Wightman (Lothian) (Green): On the target of 50,000 affordable homes, the analysis in the recent Shelter Scotland report “Review of Strategic Investment Plans for Affordable Housing”, suggests that 96 per cent of the new dwellings might be new builds, a further 2 per cent might be acquisitions of one form or another and 2 per cent might involve refurbishment. The statistics from April 2016 to the end of December 2017 show that 62 per cent are new builds and 31 per cent are off-the-shelf acquisitions. So, the figure for new build at the moment is 62 per cent and Shelter is suggesting that 96 per cent will be new build.

What is your view on how many of the 50,000 homes will be newly built properties, given that the Scottish National Party manifesto said that you were going to build at least 50,000?

Kevin Stewart: If I remember rightly, the SNP manifesto said that we would deliver 50,000 affordable homes.

Local authorities have to decide what is best for their areas. I am very pleased that many new houses are being built, but I recognise that in some areas it would be advantageous for the local authorities to buy off-the-shelf properties or buy back properties. If local authorities see that that is the right thing to do, my view is that they have the best knowledge of what is required. When I appeared before the committee previously, I think that it was you, convener who questioned me about giving local authorities the flexibility to buy back properties, and we have that flexibility in place. I am pleased by the report from Shelter, the Scottish Federation of Housing Associations and the Equality and Human Rights Commission in Scotland, because it shows that we are on track to deliver on the 50,000 target. Obviously, the report is a fairly substantial analysis of strategic housing investment plans. I have become a bit anorakish myself in that regard. It is good to see that that analysis is not that much different from our own.

10:00

Andy Wightman: The manifesto says clearly that it is about building. I am wondering whether new builds will make up 96 per cent or 62 per cent

of the total. What would you like to see? Or are you saying that you are leaving it to local authorities to decide how best to fix that balance?

Kevin Stewart: As I have said, it is up to local authorities, through their local housing strategies and other strategies, to come up with what is best for their area in terms of delivering on the 50,000 affordable homes target.

I do not know those numbers off the top of my head; I would have to look again at the Shelter report and compare it with our own analysis. I will write to the committee about those numbers. The key thing in all this is that it is about local delivery and meeting local need. Local authorities should be doing what is best for the people in their area by expanding the amount of housing that is available for social rent and expanding the amount of affordable housing overall.

Graham Simpson (Central Scotland) (Con): I want to explore a couple of areas: housing for older people, and housing for disabled people. I have asked you a number of written questions over the past months. I do not expect you to remember them—

Kevin Stewart: I probably will not remember all of them.

Graham Simpson: They were on the refreshed housing strategy for older people. First, you told me that it would be published later in the year—that is, last year. Then the publication date became spring of this year. Your latest answer is that the strategy will be published at some point in “this Parliamentary term”. Can you tell us when the refreshed strategy will be published?

Kevin Stewart: If we are talking about the local housing strategy and the guidance for it, work is on-going at this moment and my expectation is that that refresh will be completed by the end of this year.

Our commitments in “A Fairer Scotland for Disabled People” say that we will refresh that strategy. Many members will have seen the report last week from the EHRC on housing for disabled people across the UK. A number of recommendations in that report were applicable to Scotland.

I want to ensure that we get the guidance absolutely right on all of this so that we provide and deliver more homes—and more wheelchair-accessible homes in particular—that meet the needs of folk right across the country.

Beyond that, I do not think that we should necessarily be reliant on the refresh of guidance for strategies alone. A commonsense approach is needed and local authorities need to look at the information and the data that they already have

when formulating what is required in their area to meet the needs of disabled people.

Local authorities have the ability to look at their current housing waiting lists, and they can ask housing associations in their area for the same information to see exactly what is required, so that they can get on with the job of delivery.

As I have said to the committee previously, I am unwilling to open up the can of worms that is negotiations on subsidy. I have told local authorities that they can talk to my officials about subsidy rates for specialised housing or for larger housing types so that we can get the go-ahead and ensure delivery in places right across the country.

As things stand, 91 per cent of the housing that we are delivering through the affordable housing programme is for varying needs. Therefore, we are future proofing what we are building. I recognise that there is a way to go, but I do not want to rush things; I want to ensure that we get this right. Beyond reliance on the guidance and the strategy, I want local authorities to take the commonsense approach and see exactly what waiting lists in their areas show and then to make plans to deliver.

Graham Simpson: I will ask you about housing for the disabled, but my first question was specifically about the refresh of the housing for older people strategy.

Kevin Stewart: I apologise.

Graham Simpson: Is it clear that that refresh will be published this year?

Kevin Stewart: I will write to the committee to give it a definite answer on when that refresh is due. I am sorry—I picked up wrongly what you said, Mr Simpson. We are doing that piece of work jointly with the Convention of Scottish Local Authorities and, if I remember rightly, there is joint sign-off. I do not want to mislead the committee by giving a date that is not accurate, so I will write and let the committee know when that is due for publication.

Graham Simpson: Okay. Thanks very much.

I will now ask about housing for disabled people. You mentioned the Equality and Human Rights Commission report that came out last week. It is a UK-wide report, but the EHRC split it into reports on the various countries of the UK. Let us be honest: the report made pretty grim reading across the UK.

The executive summary of “Housing and disabled people: Scotland’s hidden crisis” says:

“Disabled people report a severe shortage of accessible houses across all tenures ... Disabled people can

experience serious deterioration in their mental wellbeing due to living in unsuitable accommodation.”

It also says:

“Until recently, building standards in Scotland have produced houses that are generally inaccessible, particularly for people who use wheelchairs. The result is that in Scotland only 0.7 per cent of Scottish local authority housing, and 1.5 per cent of housing managed by Registered Social Landlords, is accessible for wheelchair users”.

It makes the point that councils do not set targets for accessible housing and calls for a 10 per cent target. Do you share that concern and agree that there should be targets?

Kevin Stewart: I welcome the EHRC’s report, and we will consider its recommendations very carefully. The Government believes that everyone should have a home that suits their needs, whether we are talking about a home of the right size, a home in the right location or a home that is flexible. As I pointed out, 91 per cent of the homes that we are delivering in the social housing programme are for varying needs. That makes it easier to make adaptations in the future if those are required.

I have made no bones about the fact that I want to see more wheelchair-accessible housing delivered throughout Scotland. That is one of the reasons why I have told local authorities on numerous occasions that there is subsidy flexibility to deliver in that sphere.

Mr Simpson said that there are no targets. Many local authorities set out their ambitions in their strategic housing investment plans. Although the EHRC report talks about a 10 per cent target, I have to be honest and say that I do not necessarily want an arbitrary figure for what is required to be plucked from the air. If I remember rightly, Angus Council’s strategic housing investment plan states that 16 per cent of the housing that it delivers should be for specialist need. I would like local authorities, rather than just picking an arbitrary target or waiting for us to set an arbitrary national target, to get down to the job of looking at exactly what is required in their area and building those requirements into their strategic housing investment plans.

The refresh of the local housing strategy guidance will set out our ambition and expectations in that regard. Beyond that, we require councils and housing associations to take a logical approach and use the data that is already available to them—to look, for example, at who is on their waiting list—to set out what they need to do.

The EHRC report includes a number of recommendations, and I intend to talk to stakeholders about them. I have met on two

occasions—once before the publication of the report, and once afterwards—with Jeane Freeman, who is the minister with responsibility for delivering our disability plan. She wants to get it right, as do I, and we will look carefully at all the report's recommendations to try to ensure that we improve the lives of many folk who are currently not in suitable housing.

Graham Simpson: I have questions in other areas, but that is it for disabled housing.

The Convener: You can come back in a little bit later.

Alexander Stewart (Mid Scotland and Fife) (Con): Affordable housing means different things to different groups and individuals. It would be good to know how the Scottish Government defines “affordable housing”.

Kevin Stewart: The Scottish Government planning policy defines affordable housing broadly as

“housing of a reasonable quality that is affordable to people on modest incomes.”

That includes

“social rented accommodation, mid-market rented accommodation, shared ownership, shared equity, discounted low cost housing for sale including plots for self build, and low-cost housing without subsidy.”

In addition, affordable housing in the context of the target of 50,000 affordable homes includes homes for social rent and mid-market rent as well as homes for low-cost home ownership.

I am sorry for reading much of that out, convener—I thought that I would simply state what is written down.

Alexander Stewart: Thank you, minister—that gives us an explanation. We talk about “affordable rent”, and you have itemised within the definition a number of categories.

The tackling child poverty delivery plan refers to working with partnerships to ensure that affordable rent becomes a reality. Can you give examples of what you are actually doing in partnership to ensure that that happens?

Kevin Stewart: First, I should say that the Scottish Government is absolutely committed to ending child poverty. That is one of the reasons why we are currently looking at what is driving costs for social landlords, so that we can examine together the opportunity to reduce those costs.

We will support the sector to expand its own improvement, innovation and efficiency work. We are working with partners in the social housing sphere to understand, for example, how savings can be made even within the affordable housing programme itself without reducing quality. We

want to ensure that we do our very best to invest while keeping rents at an affordable level. It is up to local authorities to assess a number of the aspects, and it is up to housing associations to set rent levels.

10:15

Obviously, we have rules on those bodies consulting tenants on affordability and rent increases. In certain places over the past while, some folk have been unhappy with proposed rent rises. In some of those cases, housing associations have looked at the matter again and have reduced the increase.

We are committed to continue to look at the area. My officials and others are looking at it in depth. We will continue to have discussions with partners to ensure that we do what we can to help the sector reduce costs. We hope that that will keep the rents lower.

Alexander Stewart: You make a valid point that it is important to have dialogue between yourselves, the housing associations and the housing sector to ensure that rents are affordable.

People have seen year-on-year increases taking place. How do you see housing affordability and the Government's budget priorities for the future balancing, to ensure that you capture, maintain and retain that balance?

Kevin Stewart: As we expand and deliver the programme, one of the things that will happen is that people will have more options over where they live. On the issue of the small number of difficulties with rents that there are in the social housing sector, I note that I do not hear people in that sector talking about rent increases to the degree that I hear folks in the private rented sector talk about them.

As we continue to deliver more social housing, we will give folk the ability to shift from the private rented sector into the social housing sector, thus reducing their rents.

On rent itself, there are difficulties over welfare reform and the cap that has been put in place. We are seeing some difficulties already in places where universal credit has been rolled out in Scotland, particularly in the Inverness area and in East Lothian.

I ask the UK Government to look again at its benefit cap policy and at how universal credit is having a major impact on some folks' lives. I also want it to look again at the local housing allowance, which has been capped for a number of years. Those things are causing major difficulty to rent payers in Scotland.

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): I have a follow-up to Alexander Stewart's line of questioning. The Chartered Institute of Housing's research has shown that, since 2012, there has been a growing gap between the local housing allowance and rent that is paid. The Government is concerned about the affordability of private rented housing in Scotland, as you have alluded to, particularly in the light of benefit reforms. What conversations have you had with your UK Government equivalents on that specific point?

Kevin Stewart: We have had a number of concerns for a while. I have stated those concerns in the chamber and at committee. In the opportunities that I have had when talking with counterparts, I am not backward in coming forward in telling the UK Government what I think.

The solution to all those issues is currently in the hands of the Department for Work and Pensions and the UK Government. LHA rates, which Ms Gilruth mentioned, are calculated on behalf of the DWP according to DWP criteria. Those criteria have caused major damage to many families across the country. It has been said that 2019-20 will be the last year of the freeze in uprating. We will wait and see whether that is the case. The UK Government has yet to announce what approach it is going to take after that.

I think that it is quite simple. The UK Government has to allow LHA rates to return to the true 30th percentile, which was the previous definition, to end the freeze and to recognise that rents have risen. In some places in Scotland, it is impossible for folk to pay their rents given the current LHA allowance. If the committee wants more detail on the criteria that are set by the UK Government, I am more than willing to supply you with any information that is required in that regard, although I do not have it at my fingertips.

Jenny Gilruth: That would be helpful.

I would like to go back to talk about child poverty. I know that you mentioned that in one of your previous responses, with regard to the Government's tackling child poverty delivery plan, which notes that it will

"Ensure that future affordable housing supply decisions support our objective to achieve a real and sustained impact on child poverty".

You spoke earlier about the refresh of local housing strategy guidance, and the plan also states that the strategy

"will ensure that local authorities ... take a robust, evidence-based approach to the identification of specific housing needs."

How will you monitor whether local authorities target tackling child poverty in what they are doing around house building?

Kevin Stewart: I am glad that you have mentioned the tackling child poverty delivery plan. As I said in a previous answer, we are working on stakeholder engagement on the action to work with the social sector to agree the best ways to keep rents affordable. COSLA, the Association of Local Authority Chief Housing Officers, the Scottish Federation of Housing Associations, and the Glasgow and West of Scotland Forum of Housing Associations will be involved in the development of that work. In those discussions on coming up with the best way forward, we will also discuss how we monitor all of that.

The Government is grateful to partners for the level of co-operation that there has been on many of those difficult issues, and we want to continue to ensure that we consult fully, not only on implementation but on how we monitor that. We will put flesh on the bones of all of that, and I am sure that, in the future, the committee will be asking us how we are getting on with those discussions, and how we will actually deliver on that scenario of trying to keep rent as low as possible and decrease child poverty and other poverty streams by getting that right.

Jenny Gilruth: The Government's aspirations around closing the attainment gap seem to be intrinsically linked to what we are doing on child poverty. Might the local housing strategy guidance consider how pupil equity funding links to what is happening in the housing sector? I know that the allocation of pupil equity funding is predicated on free school meal entitlement. Will you consider tying in that measure to what we are doing on housing?

Kevin Stewart: Ms Gilruth makes a very interesting point. Many of the difficulties that we face in various aspects of life, including the attainment gap, are entirely driven by poverty. I will certainly reflect on what she has said today, and we will get back to the committee on what we will do in that regard.

The Convener: I want to check a matter related to affordability. Housing associations and local authorities have significant flexibility and independence in determining their rent structure and policy and how they review their rents, and they consult in relation to that. The retail prices index has been used as the underlying rate of inflation when setting rent levels, and the convention was to use RPI plus 1 per cent. However, the other day, some constituents told me that a concern of theirs was that although the UK Government benefits were often linked to the consumer prices index, which runs at about 1.2 per cent below RPI, their local housing association

uses RPI to set rent levels. Therefore, there is widening inequality in rent affordability.

Given that this Parliament has control over a small amount of benefits and the UK Parliament has control over a significant amount of benefits—you have previously mentioned universal credit and other aspects of the benefit system—could the Scottish Government give more consideration to what guidance local authorities should get on how they set their rent levels? What representations can we make to the UK Government on how it gets its benefit levels right, including for in-work benefits? RPI is used to set the rent levels of people who receive social housing benefits—whose costs are going up—but CPI is used to uprate benefits. Every year, rent becomes increasingly harder to pay.

Kevin Stewart: It is difficult for me to sit here and talk about what individual housing associations may base their rent increases on. In relation to decisions about rent pressure zones, the Private Housing (Tenancies) (Scotland) Act 2016 caps rent increases in rent pressure zones at a minimum of CPI plus 1 per cent. I also know that, recently, a number of organisations have used CPI.

Again, it is not up to Government to dictate to registered social landlords what they do. Those are decisions for them to make, and we are in the process of taking the Housing Amendment (Scotland) Bill through Parliament.

I have in front on me a table on relevant social rent benchmarks assumptions that have been made over the piece that I could read out. I think—

The Convener: Minister, for your own benefit, do not read out that table. I appreciate that you were about to give us additional detail, but I am conscious that other members want to ask questions. I simply emphasise my hope that there is a collegiate approach with local authorities and housing associations as they independently set their rent levels and in relation to what best practice guidance in that area might look like. The other side of the coin is about the divergence between one cost pressure and one income supplement when the UK Government—and, to a lesser extent, the Scottish Government—sets benefit levels. Are those matters that you can look at with Jeane Freeman?

Kevin Stewart: That is something that the UK Government needs to look at in some depth, as it should do with all its benefits, including all the housing benefit scenarios for which it is still responsible.

At the start of each financial year, we routinely publish guidance that advises RSLs and councils of the social rent benchmark assumptions. If it would be helpful, I could send you the details,

including the tables that I have in front of me, so that you have a better indication of what is going on.

The Convener: That would be helpful. Thank you, minister.

10:30

Kenneth Gibson (Cunninghame North) (SNP): I would like to deal with the issue of rural housing. In 2016-17, about 17 per cent of Scotland's population lived in rural and island areas, but only about half of that proportion of affordable houses was built in those areas. In rural Scotland, wages are below average and rents are above average. If there is no equalisation in terms of the share of the housing that is being built in rural Scotland, more pressure is put on towns, as people have to migrate to get affordable housing, and it aids depopulation and makes it more difficult to deliver services in rural areas in the long term. I know that there is a rural housing fund, but what can we do to reverse that trend and ensure that rural and island Scotland gets the level of investment in affordable housing that it deserves, at least in terms of its share of population?

Kevin Stewart: First, I should say that the resource planning assumptions that are given to local authorities do not break down into rural and urban categories, but I know that many local authorities have that mix of rural and urban areas. Local authorities are responsible for the local investment and for deciding where that housing should be built. I have been pretty robust in saying to people that they need to consider all factors that exist in their area. There are opportunities that arise, and councils should be looking at the ever-changing scenarios that exist.

A good example of that would be Highland Council. A lot of folks were saying that the council's emphasis was largely around the Inverness area, but I think that that has changed and is changing. We have seen opportunities in terms of economic growth in Fort William, and there has been a re-emphasis there. Obviously, there have been quite a lot of stories about the pressure on social housing in the Skye and Lochaber area that has resulted from the major boost in tourism there. I am glad to say that Highland Council has adapted its approach and is looking much more at the Lochaber area and at Fort William. Certainly, we are about to see some major investment in Skye on the part of Lochalsh and Skye Housing Association.

When I go about the country, as I am prone to do, I challenge local authorities about their plans and talk to folk to see exactly what is required. I hope that all local authorities will listen to the populace at large about what is required and will

adjust their plans accordingly. After all, in certain rural areas, the additional housing might mean that the local school or some other community facility can stay open. However, these are matters for local authorities. In fairness, I would say that most of the local authorities are getting much better at this.

Kenneth Gibson: One of the issues in rural and island areas is the fact that it is much more expensive to build there. For example, on the islands of Arran and Cumbrae in my constituency, it can be anything from 25 to 50 per cent more expensive to construct a house, because materials and workers have to be brought over, and sometimes the workers have to be housed on the island during the working week. Obviously, that creates a disincentive for local authorities and registered social landlords to build houses on islands, because they can build more houses for the same money on the mainland—if we are talking about numbers of houses built, that is what they will want to do, but that makes it difficult for island communities to get the housing that they need.

What can we do to incentivise house building in rural and island communities so that there is a level playing field and that disincentive for authorities and better social landlords is minimised?

Kevin Stewart: Once again, I will touch on the subsidies. As I keep saying, I will not change subsidy levels, but local authorities and housing associations can have discussions with my officials about subsidy levels for remote rural and island communities. I recognise that it costs more to build in certain places. Often, the skills have to be brought on to an island because they are not there. I hope that we can build up the skills on the islands and that the pipeline of work will enable us to do that in many places.

Some of the subsidised projects that have recently been completed have received fairly substantial levels of subsidy, but we were keen for them to go ahead. One of the best examples of that is the project at Ulva Ferry on Mull. Building a couple of houses there was immensely costly compared to building even on other parts of Mull, as I understand it. We recognise that is the case. My officials on the ground take a commonsense approach to the matter. We need to get the local authorities to have the discussions to get what is right, whether that be on Arran, Cumbrae, Mull or even Ulva.

Andy Wightman: You helpfully supplied some data to the committee last year that was analysed by Rural Housing Scotland, which claims as a result of that analysis that 72 per cent of new homes in the affordable housing supply programme that were classified as rural were

actually built in urban areas. There is some disagreement about the numbers and I do not propose to enter into that disagreement at the moment. However, rather than publishing the data in a simple urban-rural split, for statistical accuracy, will you commit to publishing it on the basis of the sixfold urban-rural classification in the future so that there will at least be some understandable data?

Kevin Stewart: If I remember rightly, Mr Wightman asked a similar written question of me previously. There might be some difficulties with some of the data gathering. I do not want to commit myself to doing something that I cannot necessarily do easily. I will examine the situation and get back to the committee with what is possible and not possible.

Andy Wightman: That is extremely helpful.

I will leave it there on rural housing, convener. I would like to ask some questions on affordability, but perhaps I will come back to that.

The Convener: Why not fire away now? I give members a heads-up that we have about 20 minutes left of this evidence-taking session. If they want to ask something specific, I ask them to catch my eye so that we can get it in.

Andy Wightman: You have laid out the Government's definition of affordable housing as being based on the planning system and tenure. However, shared ownership and social rented housing are not available to growing numbers of young people, in particular. Even so-called affordable homes at 80 per cent of market rent are not affordable.

The committee is aware of the difficulties in defining affordability based on incomes. I do not underestimate those difficulties, but will you consider redefining what you mean by affordable housing in policy terms, to move away from a vague planning and tenure basis to something that is more akin to people's real lived experience of what housing costs?

Kevin Stewart: Being the anorak that I am, I have considered a huge amount of discussion, academic papers and what could be termed general argument about how to define affordability. We could spend a very long time trying to define something that, in some cases, is almost indefinable. I would rather get on with the business of delivering. One of the key aims is to increase the supply of housing—social rented housing in particular. That will allow more folks to access housing, thus it becomes more affordable. I am quite sure that the committee will have considered various academic papers and taken part in some of the arguments about how affordability is defined.

I think that what we have at the moment, although it is not ideal, gives us a fairly good setting. I do not know how long it would take for us to reach agreement on a definition, or whether that definition would necessarily last five minutes. The reality is that what may be affordable to us as individuals today might not be affordable tomorrow, because of ever-changing circumstances. I would rather concentrate on delivery than have a huge rammie about the definition.

Andy Wightman: I am not proposing “a huge rammie”. I acknowledge that it is difficult. My point is that the current definition talks about housing being

“affordable to people on modest incomes”,

but it goes on to outline a tenure-based approach. I am simply saying that use of the term “affordable housing” is increasingly disconnected from people’s everyday experience of how affordable housing is. I am not suggesting that we have a big rammie about what affordable housing is. I am simply suggesting that we move towards something that may not be perfect, but may be more akin to people’s everyday understanding of what is affordable for people on modest incomes.

Kevin Stewart: As you well know, convener, I am a pragmatic man, and I would rather spend time on delivery than concentrate my efforts on that kind of scenario. If somebody came up with a different definition, I would look at it, but in all honesty I want to concentrate on delivery rather than argue about a definition. A lot of folk do not agree with the current definition, but a lot of other folk do not agree with the other definitions that have been put forward by academics and others. We have what we have, so I would rather concentrate on delivery.

The Convener: You have had your answer, Mr Wightman, although it might not be the answer that you wanted. In the papers that we looked at, the question of the definition was hotly debated, so I thank you for raising the issue.

Kevin Stewart: I do not know which papers you have seen, convener, but I imagine that they are probably not much different to the stuff that I have read.

The Convener: The definition is an issue, so it was important to raise it.

Graham Simpson: I have a couple of quick questions. Have any councils yet applied to set up rent pressure zones?

Kevin Stewart: There have been no formal applications to the Government. I know that a number of local authorities are looking at that option, but no such intention has been stated—unless that has happened in the past few days.

Graham Simpson: Do you know which councils are considering doing so?

Kevin Stewart: It is fair to say—because there have been press reports—that the City of Edinburgh Council and Glasgow City Council are considering doing so. Beyond that, I know that other local authorities have been talking about it, but I do not know how far advanced developments are, in that regard.

Graham Simpson: My second question is about the warm homes bill, which was a Scottish National Party manifesto commitment. It appears to have been dropped. I could be wrong on that, but—

Kevin Stewart: Forgive me, but I cannot remember the name of the bill. It will be introduced before summer recess, alongside the fuel poverty strategy.

Graham Simpson: Are we talking about something that will be called a fuel poverty bill?

10:45

Kevin Stewart: It will be called the fuel poverty (target, definition and strategy) (Scotland) bill”. That will set the new definition and a new statutory fuel poverty target.

The Convener: That is a snappy name.

Kevin Stewart: I wish that I had more of a say in such matters, but the name of a bill must be neutral and acceptable to the Presiding Officer.

Graham Simpson: Let us just call it the fuel poverty bill. That is different from the proposed warm homes bill. Has the warm homes bill been dropped?

Kevin Stewart: No. We have always said that we will do the work in two stages. The first stage is the fuel poverty bill, which will drive provision of support to the people who are most in need, regardless of where in Scotland they live. That will go alongside the fuel poverty strategy that will be published at the same time, and which will outline our aims to maximise the number of homes that reach energy performance certificate band C, and to target support that enables action to be taken.

As the committee is well aware, we have already set out a number of standards for social housing and private sector landlords, and the fuel poverty bill—which will be published before the summer recess—will spell out what is required in the owner-occupied sector.

Graham Simpson: I hear that. Is it the case that we will not have something called the warm homes bill?

Kevin Stewart: No. We will have the forthcoming fuel poverty (target, definition and

strategy) (Scotland) bill, which I would much prefer to have called the warm homes bill.

Graham Simpson: What was the reason for the change?

Kevin Stewart: It is my understanding that “Warm Homes (Scotland) Bill” would not have been accepted as a title.

The Convener: Given that Mr Simpson thought that there would be two different pieces of legislation, it would be helpful when the fuel poverty bill is introduced for it to be made clear which aspects of what Mr Simpson believed would be in the warm homes bill are incorporated in the fuel poverty bill.

Kevin Stewart: I do not think that we are talking about anything different, but I will outline in writing all the detail of what we are going to do in the next couple of weeks.

Graham Simpson: My concern—and, indeed, that of stakeholders—is that the bill might be different from what we expected.

Kevin Stewart: No.

Graham Simpson: So, it is just a change of name.

Kevin Stewart: I would have much preferred the bill to have been called the warm homes bill, but that is not where we are at.

The Convener: When the committee looks at the bill, we will scrutinise the content rather than the name.

Kevin Stewart: Absolutely. The content is key.

The Convener: Do you want to follow up on that, Mr Simpson?

Graham Simpson: That is fine.

Kenneth Gibson: On 12 October last year, the rental income guarantee scheme was launched to boost investment in building houses to rent. What progress has been made on delivery of that scheme?

Kevin Stewart: Expanding the build-to-rent sector is part of the wider “more homes Scotland” approach. It is a key element of our strategy for the private rented sector.

Last October, we launched a package of measures to stimulate growth in the sector and to attract investment in the build-to-rent market. As part of that package, which was well received, we have offered changes in planning advice and taxation. We have also explained the tenancy reform process that we have gone through and the rental income guarantee scheme, which Mr Gibson mentioned.

The Scottish Futures Trust has had quite a number of meetings and has kept in close contact with developers, investors and lenders, and I am told that there has been positive feedback on the scheme. As things progress, I will be more than happy to keep the committee informed of developments.

Kenneth Gibson: It is just over seven months since that scheme was launched. Is there any indication of the number of additional privately rented homes that will be built either in this financial year or the next as a direct result of the policy?

Kevin Stewart: That is difficult for me to say. I think that the Dandara scheme in Aberdeen was the first to be completed in Scotland. Planning permission is being sought for a number of sites in Glasgow, but if members will excuse me, I will not talk to any great degree about planning permission. Work is being done in Glasgow at Finnieston, on Pitt Street and Fountainbridge in Edinburgh by Moda Living and Apache Capital, and in Dundee at Whiteburn. I have no more detail than that, and I am sweirt to talk about sites for which planning permission might be being sought at the moment.

Kenneth Gibson: It sounds as if progress is being made. On 20 December, the Cabinet Secretary for Finance and the Constitution told the committee that he was considering using financial transactions capital to support a building Scotland fund, which would have prominent housing and infrastructure processes. Where are we with that?

Kevin Stewart: There have been discussions between members of my housing innovation team and others who are helping to establish the Scottish national investment bank. The £150 million building Scotland fund is seen as a precursor to the Scottish national investment bank. The money will be available to non-public-sector organisations, as the committee is probably aware, and debt or equity capital will be provided. We are at the early stages of the process. A lot of discussions are going on between the housing innovation team and others in Government to get that absolutely right.

The Convener: We have changed the budget process, because we now seek to use every opportunity to have a rolling programme of questions on the budget. One of the issues that we raised on the last financial year’s budget related to moneys for adaptations. The committee wanted to ensure that there was a tenure-neutral approach to adaptations, but noted that the budget for the social rented sector outwith local authorities—in essence, housing associations—was £10 million. It had been £10 million for some time, so it was not a cut, but the figure was stuck. We tried to get some information—the

Government has been helpful in providing information on the spending on health and social care partnerships within integration joint boards—but the information that we were getting was a bit patchy. We found out that in 2016-17, 23 integration joint boards got just over £38 million, so we did not have the full picture.

We are keen to ensure that we have a tenure-neutral approach to adaptations, particularly in light of the matters relating to disability and housing provision that we have talked about. It appears to me—the committee will need to discuss this—that the £10 million figure might need to shift at some point in the future. However, we cannot really gauge how much it should shift, on a tenure-neutral basis, if we do not know how much integration joint boards spend on other types of tenure. Any comments that you have on that would be helpful.

Kevin Stewart: I probably have a fair number of comments on that. I say at the outset that the £10 million is additional Government money that goes to RSLs for adaptations, as I have explained. Primary responsibility for housing adaptations rests, as the convener rightly pointed out, with integration joint boards' health and social care partnerships, and what they do should be tenure blind. I agree that the information that I have provided to the committee is patchy: I am not particularly happy with that situation.

We will go back to the HSCPs and ask them to have a hard look at what they are doing in that area. On Saturday, I was in Aberdeen, at an event at which tenants and residents from a number of local authorities were having their regional annual general meeting. It would be fair to say that although some of them were complimentary about what is going on in their areas, others were very unhappy indeed. We have had a number of workstreams on adaptation and we have findings from our pilots. I will look closely at what might need to be done, either in terms of exporting best practice all over the place, or in terms of talking to colleagues to see whether there is a need for additional guidance.

My final point is a very simple one. There will be a human cost to not getting this absolutely right, but there will also be a cost to the public purse in not doing it properly. At the end of the day, if people are not getting the right adaptations that enable them to lead the independent lives that they want to lead, the additional cost of their having to go into hospital or another care setting will be a burden on the health service. Therefore, absolutely the right thing to do for people and for the public finances is for HSCPs to bend spend to ensure that they get adaptations right.

The Convener: I want to ask a final question, on which, given the time, it might be helpful if you

could give the committee information in writing. I note that Mr Wightman wants to come in with his own final question.

We should measure outcomes from the £38 million and the £10 million that I mentioned in relation to adaptations. Any information that the Government holds, or is seeking to obtain, on how those amounts can be spent most effectively and efficiently would be welcome. Also, because of the connection that you pointed out, minister—that more than £10 million will be spent in the social rented sector, because HSCPs are not precluded from investing in it—it would be better if we could understand the overall spend in the sector. For example, that would be vital for my area, in which there are no council houses, so it would be good to have clarity. Perhaps you could write to the committee with any information that you have.

Kevin Stewart: On budgeting, I do not think that I will have much more information than I have already given the committee. I do not know how easy it would be for us to get our hands on evidence of the differences that adaptations make to individuals' lives, although it might be useful for the committee to have that. It is very difficult to gauge savings, because they might not be entirely clear. We will provide the committee with whatever we can.

As I have said, I do not think that I can provide anything more on budget. However, the committee can be assured that I have a great interest in the area. Although the matter does not all fall within my portfolio, my colleagues and I will do all that we can to ensure that the best practice in some places also happens elsewhere. That is absolutely the right thing to do for people, and we will do what we can to get on top of it.

The Convener: That would be really helpful. It means that when we get to the sharp end of budget scrutiny we will not just be looking at raw numbers but at the wider picture.

11:00

Andy Wightman: I have a couple of brief questions. Recently, I had a meeting with the Scottish Commission for Learning Disability, which was concerned about specific guidance on planning for people with learning disabilities in relation to housing. Are you aware of the report from October 2017, and are you engaged in addressing some of those concerns?

Kevin Stewart: I am aware of that report. If I remember rightly, Maureen Watt was recently at a meeting with the SCLD at which she fed back on a number of things from it. I was supposed to attend that meeting, but other business came up. It is an area that we will look at. As I have said to the committee before, at the moment the resource of

the building standards division is focused on the aftermath of the Grenfell tragedy and the Cole report. We will soon get reports back from the independent panels that have been looking at fire safety and building standards. After that work is done, we will get back on track on a number of things that have come to our attention.

Andy Wightman: That is helpful. Finally, on the private rented sector, the outcome to action 30 in the joint housing delivery plan talks about

“More people choosing to rent in the private sector”.

Many people in the private rented sector at the moment do not want to be, and would rather be in the social rented sector, but even after 35,000 more homes being built they will still not be able to get a social rented home. I wonder whether more people choosing to rent is an absolute aspiration—do you want arithmetically more?—or is the aspiration that relatively more people will do so, given that the percentage has trebled since 1999.

Kevin Stewart: I want to give people choice. I want to give people the choice of living in a council house or housing association home, or in quality private rented stock, or of being able to own their own home. People make different choices at different points in their lives, and it should be easy for folk to move as they want. There are folks in the private rented sector who do not want to be there, which is one of the reasons why we are doing all that we can to increase social housing across the country. I also know that there are a lot of folks who want to live in the private rented sector. It is all about giving people choice

The Convener: Thank you. That brings us to the end of this evidence session. I will suspend the meeting briefly, but you cannot make your escape, minister; you are sticking with us for the next agenda item. However, I thank you for your evidence, and I thank your two officials for coming along this morning.

11:03

Meeting suspended.

11:08

On resuming—

“Code of Conduct for Councillors”

The Convener: Agenda item 3 is on the revised “Code of Conduct for Councillors”. The revised code of conduct—SG/2018/65—is to be approved by resolution of the Parliament, so the committee’s role is to consider it as it would consider an instrument that is subject to affirmative procedure. For this agenda item, the committee will take evidence on the revised code from the minister. For the following agenda item, the committee will formally consider a motion to approve the revised code.

I welcome again Kevin Stewart, Minister for Local Government and Housing, who is joined by Brian Peddie, who is the relationship manager with the Scottish Government’s local government policy and relationships unit. I thank you both for joining us. I invite the minister to make a short opening statement.

Kevin Stewart: Thank you for giving me the opportunity to talk about the proposed changes to the code of conduct. Mr Peddie’s input might be necessary at various points, as he is, without a doubt, the expert on the code of conduct.

I have laid this revised version of the code before the Parliament primarily to address two issues. The first concerns the code’s rules on declarations of conflicts of interest. We received representations that those rules were inhibiting councillors’ ability to represent councils on the boards of regional transport partnerships and that that could adversely affect the effective working of those boards.

I should probably declare at this point that I was previously chair of a regional transport partnership, Nestrans—the north east of Scotland transport partnership. RTPs exist to strengthen the planning and delivery of regional transport developments and it is important that councillors should be able to take part in their work while still properly representing those who elected them. The proposed amendments, which were the subject of public consultation, are aimed at removing the unintended barriers to achieving that aim while maintaining the general rules on conflicts of interest.

The second reason for the revised code is to make it as clear as possible to councillors, those who work with them and members of the public that bullying and harassment in any form will not be tolerated. Despite the great progress that has been made in promoting and achieving equality, it is clear that more needs to be done. My

colleagues and I are determined that any form of prejudice, by anyone, should be stamped out wherever it exists.

People are entitled to expect that elected councillors will not engage in unacceptable behaviour, and the proposed amendment to the code will make that crystal clear. That follows similar changes made by the First Minister earlier this year to the Scottish ministerial code. I am pleased to say that COSLA is fully supportive of the proposed change.

It is also proposed to make some minor clarifying changes to the code, many of which reflect suggestions put to us by the Standards Commission for Scotland.

Looking ahead, we await the outcome of the Standards, Procedures and Public Appointments Committee inquiry into sexual harassment and inappropriate conduct at the Parliament, which includes consideration of the code of conduct for MSPs. Once that inquiry has reported, we will consider whether any of its recommendations should be reflected in further changes to the code for councillors. I will advise the committee once that consideration has taken place.

I hope that that is helpful. Mr Peddie and I are prepared to answer any questions that you might have.

The Convener: Thank you, minister. We will move to those questions now.

Graham Simpson: We have had the Commissioner for Ethical Standards in Public Life in Scotland, Bill Thomson, before us for a couple of fairly robust sessions. Members—me, in particular—have expressed concerns about the code and the way in which it is used against councillors, which is often in a vexatious and politically motivated manner. Should we have a root-and-branch look at it, rather than having the piecemeal reforms that you have produced today? We as MSPs have not had a chance to input into the process—this session is it, as well as the yes-or-no vote later today—or to amend any part of it.

My concern is that what we will be left with could be even worse. The section on bullying and harassment in the proposed code says only:

“Bullying or harassment is completely unacceptable and will be considered to be a breach of this Code.”

On the face of it, we might say that that is fair enough, but how do we define “bullying” and “harassment”? It could open the floodgates for councillors, in particular, to make complaints against other councillors and to say, for example, “He has harassed me,” or, “She has bullied me.” It is just not specific enough. What is your view on that?

Kevin Stewart: I wrote to the convener earlier in the year about that. I agree that there might be merit in a full review of the code. It was last fully reviewed in 2010 and it must continue to evolve and change with the times. However, we do not currently have firm plans for a review. We will consider the way forward once the Standards, Procedures and Public Appointments Committee has produced its report.

On the general points that Mr Simpson has made, having been a councillor myself for a number of years, I am aware that the code has sometimes been used for political purposes. We live in a political environment. Sometimes, complaints have been vexatious. However, the code and the standards are required. The changes that we have made will mean that the code is much more explicit on bullying and harassment than previously.

11:15

Graham Simpson: The problem is that it is not explicit. It is extremely vague. It simply uses the words “bullying or harassment”, and those two terms mean many different things to different people. Do you not agree with my initial point that it could open the floodgates?

Kevin Stewart: No, I do not agree with that point at all. I remember that, at the time of the publication of the code of conduct, people said that it would open the floodgates for complaints from members of the public and other elected members. That did not happen. However, in my opinion, the code did change certain behaviours in council chambers, which was a good thing. As with any code in a political environment, there will be folks who will chance their arm at points, which is not a good thing for grown-up and mature politics. We need a code, and it is right in the current circumstances to emphasise bullying and harassment.

The Convener: Other members want in, Mr Simpson. There will be the opportunity for a wider discussion on that theme under the next item on the agenda. You can continue if you want, but you will have another opportunity under the next item.

Graham Simpson: It is up to you, convener. I have questions about another part of the code.

The Convener: Okay. Mr Gibson, do you want to come in in relation to this issue?

Kenneth Gibson: I agree with the minister that we have to move with the times and it is important that issues such as bullying and harassment are covered, but we cannot just use a couple of words to do that. What is bullying to one person could just be a robust exchange of views to somebody else, but that person could say, “You’re bullying

me.” There has to be more detail and meat on the bones if people are to know what the parameters are.

It is not just about protecting councillors from vexatious complaints; it is about ensuring that people who genuinely are being bullied or harassed are taken seriously. There is a balance to be struck, and the form of words that is to be used in the code does not meet the required standard.

The Convener: Does the minister want to respond?

Kevin Stewart: The wording is taken from the changes to the ministerial code and was agreed by COSLA. I understand that it was agreed by COSLA leaders—I am getting the nod from Brian Peddie.

We will go back and look again after the Standards, Procedures and Public Appointments Committee has reported. Many people wanted a change to reflect what is currently going on in society. The First Minister agreed to change the ministerial code, and the proposed change reflects that.

Alexander Stewart: Nobody disagrees that we have to be alive to the fact that, in a political environment, individuals have their own views and opinions and sometimes the situation can become heated. We acknowledge that the code was brought in to protect councillors, their integrity and the officials around them, and to ensure that there was a good balance, which did not happen in the past. Many of the rules and conditions that are in the code are there to ensure that there is protection. However, as we have heard, we could find ourselves in a very difficult situation and councillors could find themselves in some very difficult situations in relation to the interpretation of the code.

Who was consulted? You said that COSLA leaders commented. Did they give written evidence? Did they take soundings from any of their councils? Is there any evidence on what areas were looked at with reference to bullying and harassment, or was it just an overview?

You have touched on the ministerial code. It may well cover what a minister does, but the situation may not be the same for a councillor. You and I had that role for a number of years prior to coming into this place. A council chamber is a very different environment, and a councillor's role and responsibilities, how they are involved in the community and who he or she gets involved with are all very different. The complexities that councillors may face are different from those that we face in our roles here.

I would like to find out more about the consultation. Who was involved, what was discussed and what areas of expertise were taken on board when making the decision?

Kevin Stewart: It does not matter whether someone is a minister, an MSP, a councillor or any other type of public servant, there should not be any bullying or harassment going on.

The wording has been chosen to match that in the ministerial code and has been agreed not only with COSLA but with the Standards Commission for Scotland and the Commissioner for Ethical Standards in Public Life in Scotland. My understanding is that the code was agreed by COSLA leaders. Brian Peddie will give you the details. I do not know whether there was any dissent; I do not think that there was, but I will pass you over to Brian Peddie in that regard.

Brian Peddie (Scottish Government): I just add that the proposed change was endorsed by COSLA leaders at a meeting at the end of March. I cannot speak to what consultation may have taken place between COSLA and its member councils before that, but we had quite lengthy discussions with COSLA officials before that meeting to lay out and discuss the proposed wording of the change to the code.

We also discussed it at official level with the Standards Commission for Scotland and the Commissioner for Ethical Standards in Public Life in Scotland. In fact, originally, the proposed wording was going to be a bit longer but the standards commission and the ethical standards commissioner felt that it was potentially unhelpful to do that, partly because of the risk of accidentally excluding behaviours that ought to be included. They felt that the better approach was to have a clear and short amendment, and that is the approach that we adopted.

Kevin Stewart: All 32 leaders of councils had a say or should have had a say at their leaders meeting. They would have seen the proposals that were put before that leaders meeting.

The Convener: I want to leave the couple of questions that I have until the end. Do members have any other questions?

Jenny Gilruth: As we have heard, the substantive changes make an addition to section 3 of the code to make it clear that

“Bullying or harassment is completely unacceptable”.

I would like to look at that from a gender perspective, because we have heard recent reports with regard to bullying and harassment at local level. In Fife, a Conservative councillor, Linda Holt, has spoken out previously about “misogynistic bullying” leading to women being “shamed” into silence.

The gender representation on our councils is not great and, nationally, only six council leaders are female. Arguably, a macho culture still exists at council level. Alexander Stewart is absolutely right that there is a different culture in our councils. I have witnessed Fife Council meetings in the past and I have to say that I was pretty shocked by some of the culture and the behaviour of elected members at meetings.

Do you recognise that there is a difference in terms of cultures and do you think that the code needs to be formalised further, specifically with regard to gender? I am also thinking about what has happened more recently with sexual harassment.

Kevin Stewart: On the reason why the words “bullying” and “harassment” are used with no specifics, to be frank, we could go into a huge amount of specifics, including on gender, homophobia and race—the list goes on—but it is much easier to say that we have zero tolerance of any sort of bullying or harassment.

We may well have to make amendments after the Standards, Procedures and Public Appointments Committee reports. As Ms Gilruth mentioned, people such as Councillor Holt and others across the country, a number of whom are new to local government, have been quite shocked by the behaviours that there have been. Beyond that, the change in demographics in local authorities at the most recent election has allowed other folks who felt uncomfortable previously but who were unwilling to say anything about it to come forward, and that is a good thing.

I want a situation in which we are clear that we will not tolerate bullying or harassment in any shape or form.

Jenny Gilruth: I also have a question about social media. I do not think that the code explicitly refers to online behaviours, but there is a reference to that in the guidance on the code where, in the section on general conduct, councillors are encouraged to think about

“whether your comments are likely to bring your office ... into disrepute”

and

“whether you are treating others with respect”.

The guidance also states:

“tone can be harder to convey online so consider whether humour, irony and sarcasm can be perceived as such”.

There is even a reference to retweets and likes, which I suppose can be done in a passive-aggressive manner or in a surreptitious way. There is a possibility, though, that councillors will

ignore that guidance wilfully, as it is not part of the code. Does that need to be revisited?

Kevin Stewart: I ask Brian Peddie to deal with that aspect first.

Brian Peddie: I am a bit sorry that the minister described me as “the expert”, as that is sometimes an invitation to disaster, but I will take my chances.

One of the proposed amendments to the code refers to social media. That was at the suggestion of the Standards Commission for Scotland. Section 3.1 of the amended code explicitly requires councillors to respect

“The rules of good conduct ... including ... when using social media.”

The commission felt that, although that was probably implicitly included, it would be sensible and appropriate to include a specific reference to it, and that is why it has been added. Again, we could come back to that in a wider review of the code and consider whether it ought to be expanded upon, but at least we will now have an explicit reference to social media in the amended code, if it is approved.

Kevin Stewart: I hope that that is helpful.

Jenny Gilruth: It is. Thank you.

Andy Wightman: Under section 5 of the code, on declaration of interests, councillors are required to declare any financial or non-financial interests of

“a spouse, a civil partner or a co-habitee ... a close relative, close friend or close associate ... an employer or a partner in a firm”,

and the list goes on. However, none of those requirements applies to MSPs. We are not approving an MSP code, but I wonder why, in general terms, it is felt that that degree of declaration of financial interests of councillors and people they know continues to be required in the code, specifically when, under the Interests of Members of the Scottish Parliament Act 2006, we do not have to say anything about our spouses, cohabitees, partners, close relatives and so on.

Kevin Stewart: I am, of course, not responsible for the declarations that MSPs have to make. I was quite used to all of that as a local authority member and, personally, I would have no problem in declaring all of that as an MSP, but I am here today to talk about the “Code of Conduct for Councillors”.

Andy Wightman: That is why I asked the question. What is the continuing justification for that degree of declaration to be made by councillors?

11:30

Kevin Stewart: Obviously, the code has been in place for a long while, and it was put together after a huge amount of consultation, including with the public. It is what we have. It is the “Code of Conduct for Councillors”. If members want to talk about any other codes of conduct, they need to do that with the relevant ministers. There is an expectation among the general public that folk should be as transparent as possible, and that is what the code requires.

The Convener: If an accusation of bullying and harassment is made against a councillor, how would that be dealt with under the current code, before it is changed?

Kevin Stewart: There is a general line on that. I ask Mr Peddie to tell you what it is.

Brian Peddie: The general provision in the code as it stands is a requirement to treat other persons with respect. That has been used in the past as the basis for proceedings against councillors under the code in relation to behaviour that could be described as bullying or harassment. It is a very wide-ranging and general statement in the current code.

The Convener: The issue is significant. There is obviously a thirst among committee members for the code to be looked at more generally. I am loth not to approve the code today just because it is not much clearer about bullying and harassment, but some reassurance might be necessary about how we move forward after today. I seek a bit of clarity on your intentions. Once the Standards, Procedures and Public Appointments Committee concludes its consideration, irrespective of what is in its report, will you return to the committee and consider, collegiately with us, what opportunities there are to take a more general look at the code?

Kevin Stewart: As I said, we will see what the Standards, Procedures and Public Appointments Committee has to say about the entire scenario. I am not averse to coming back to this committee to discuss the code further. That committee's report might well clearly show that there is a need for a review, but it might not. As I said in my opening remarks, changes to the code have not been looked at in any great depth since 2010, so it is probably about time that we had an overview to see whether a review is required.

The Convener: I assume that that is without prejudice to what the Standards, Procedures and Public Appointments Committee does or does not report.

Kevin Stewart: Yes.

Graham Simpson: I want to ask about section 7 of the code, but first I want to reflect on what we

have heard already. The committee has only just started to look at the code, but members have raised a number of interesting points and you have accepted that you might need to reflect on it further. Why do we not just park the issue for now and let the committee do its job? We can make suggestions. Why not have the review now?

Kevin Stewart: I am happy for the committee to do its job, but I also have a job to do, and I would be failing in my duty if I disregarded the situations that I have heard about in recent times, many of which are truly and utterly shocking. We have to do our level best to eradicate bullying and harassment in whatever shape or form, not only in local authorities but elsewhere. The First Minister showed leadership on the issue by changing the ministerial code very quickly. With the agreement of COSLA, including the agreement of the president of COSLA, Alison Evison, and the leaders, we want to do likewise. I think that we should do so now and should not wait for anything else, to show that we have a clear commitment that such behaviours are unacceptable.

The Convener: Members can make any other points that they wish to make under the next agenda item, which is to debate the motion on the code. If members have no more specific questions, we will move on.

We move to agenda item 4, which is still on the “Code of Conduct for Councillors”. The committee will formally consider motion S5M-12191. Only the minister and members may speak during the debate. I invite the minister to speak to and move the motion.

Kevin Stewart: I have said all that I need to say on the subject.

I move,

That the Local Government and Communities Committee recommends that the revised and updated Code of Conduct for Councillors' for the Ethical Standards in Public Life etc. (Scotland) Act 2000 be approved.

Graham Simpson: Unfortunately, we are not looking only at the revisions to the code; we are looking at the entire code, and that is what we will vote on. When Bill Thomson was before the committee, I asked him whether we should look at the whole code at this point and he said that, in an ideal world, that is what we should do. We need to consider not just the proposals for change but what is there already.

I was going to ask about section 7, but I cannot, so I will just make points about it. My biggest bugbear about the code is probably the fact that section 7 limits the ability of councillors to express a view on planning matters. Section 7.3 does not just say, “You must not say what you think”; it says, “You must not prejudge”. It strikes me that that is equivalent to saying to councillors, “You

must not even have thoughts about planning applications,” not just that they cannot say what they think about them in advance. That seems to limit free speech. When I was a councillor for 10 years, I always thought that that was absurd, because someone who is elected as a councillor is elected to represent people and to have opinions on things.

Why should councillors not be able to express an opinion in advance of a committee meeting? I accept that, when they have heard further evidence, they might well come to a different view, but they should certainly be able to say what they think. The code prevents councillors from getting involved in planning matters, and they often hide behind it. They are not entitled to express an opinion once a planning application is live, although, bizarrely, they are entitled to express an opinion and say what they think before it goes live. Once an application is live, they are, in effect, stymied, which is absurd. For that reason, and because of the woolly language that we heard about earlier, I will vote against the motion.

Kenneth Gibson: My concern is that, in effect, the committee is being bounced into this. There should have been much more consultation with the committee, and deliberations, discussions and taking of evidence. Way back in the 1990s when I was a councillor on Glasgow City Council, I was involved when we brought in the first code in Scotland. I remember that we had weeks of evidence taking and deliberations.

The code has been built on since then. It seems to be growing arms and legs. I was a councillor in the days when we did not have the nonsensical restriction with regard to planning. The public point blank do not understand the situation—they do not comprehend why the people they have elected cannot have a say in planning decisions on which they are lobbying them. There is an element of frustration.

With regard to bullying, there has to be much more detail, as other members have said. The example of online sarcasm has been mentioned. Is someone bullying if they speak quietly and menacingly, but not bullying if they shout, or vice versa? How do we decide on those matters? There has to be much more discussion. The council leaders have discussed the issue, but I do not know whether all 32 were in attendance, what the vote was or whether they consulted their members. If the code is to go forward, we should look at it more comprehensively. If we do that, we will have a code that is much more workable, and the public and elected members will understand it and will be much more willing and able to work with it.

Andy Wightman: Ministers have a duty to bring forward the code and get Parliament’s approval for

it. It is clear from the questions that were asked and from some of my colleagues’ contributions that questions remain about the appropriateness of elements of the code. I am particularly uncomfortable to be voting as an MSP on a code that requires councillors to divulge financial and non-financial interests that relate to family members, which increasingly intrudes on their privacy. I understand why such provisions are there, but the contrast between the duties that are placed on MSPs and those that are placed on councillors is profound. I would like to explore whether that is appropriate.

I have substantial sympathy with Graham Simpson’s comments about section 7. Since the first code was issued, a lot of the code has evolved on the basis of concerns about very specific instances. In general terms, it is understandable that a code should respond to matters that arise, such as the emergence of social media, but I am a little concerned that the on-going applicability of some restrictions has not been fully considered. This is only a code, but it could ultimately result in severe sanctions for councillors.

I very much welcome the incorporation of the bullying and harassment element, which is a key change and is one of two substantive changes. Given the public concern about the subject and given some of the behaviours that the minister referred to, it would be wrong to vote against a code that incorporated that new provision—that would send the wrong signal to the public, who expect the highest standards of behaviour from all elected members.

I will vote to recommend that Parliament should approve the code, but there are substantive concerns—Graham Simpson raised one, and I have raised another about the disclosure of financial and non-financial interests. It is time to have a root-and-branch review of whether those requirements are still appropriate and, if they are, of the terms in which they should be expressed in the code.

Alexander Stewart: I served for 18 years as a councillor. Before the code was introduced, my council had a standard, but I acknowledged that a code was required, and I still believe that it is required.

There is no question but that adding a provision on bullying and harassment is right, but the code must be more explicit. In the past, we used the term “respect” in relation to bullying and harassment—anyone who did not show respect was managed in that way. Under the code, that was how people who bullied and harassed others were dealt with.

There is no question but that individuals hide behind the code so that they do not have to give constituents, organisations and individuals information. I certainly never did that but, on numerous occasions, I witnessed that being done by individuals who felt that the code gave them an advantage in not getting embroiled in a situation. That was their choice.

I have sympathy with what is proposed and I acknowledge what the Government is trying to do, but I still have concerns about where we are. We are not seeing the full picture and we are not being given every opportunity to have a discussion. The committee is discussing the code only today; we have not had an opportunity to broaden the horizon and broaden the process.

I have difficulty in seeing where we can go. I want the code to be as robust as it should be to protect individuals and to ensure that people trust and have confidence in it but, if the provisions are not explicit, the situation could be worse than it is now. Those are my concerns.

11:45

Jenny Gilruth: I will be brief. I will go back to my question, which was about gender. I am the only female MSP here today. I will vote for the revised code of conduct, because I think that it is really important that we say that the behaviour that Alexander Stewart has talked about, which has gone unchallenged in the past, is unacceptable. By agreeing to the motion, we will send out a clear message. When I look round the table, I see that there are 14 men and two women. I do not think that that is okay in here, and it should not be okay out there, either.

The Convener: I will take the opportunity to set out my views. I asked a specific question about what is in the existing code on treating others with respect. That is clearly a vehicle that someone who believes that they have been subjected to bullying and harassment can use, and I am sure that it has been used effectively in the past. However, it is wrong that there is no mention of bullying and harassment in the code and that it does not say that people should come forward. That is a flaw, and the code should be changed. I will support that change.

By not supporting the revised code, we would send out an appalling message. However, there is a general thirst for the code to be looked at in the round. I do not think that those are competing interests. Some members of the committee will have a continuing interest in the issue of financial declarations. No change is being made on that today, and members have identified a variety of other issues on which no change is being made. Whichever way we cut it, the most fundamental

aspect of the changes that we are considering today is whether we send out a clear message that bullying and harassment are wrong and that we wish people to come forward.

I absolutely get the point that has been made about what we mean by bullying and harassment. I suspect that, if you feel it, you know what it is. If we were to provide too specific a definition, we would exclude some people who feel that they have been bullied or harassed. There are huge challenges there, because there is sometimes a lack of objectivity when people feel that they have been bullied or harassed. However, it is an omission not to mention bullying and harassment in a code of conduct.

I seek from the minister a reassurance that we will look at the code of conduct again after the Standards, Procedures and Public Appointments Committee reports. I am not using my support as leverage; I will support the revised code, because it includes a clear assertion that bullying and harassment are not acceptable and will be acted on. However, that does not negate all the significant issues with the code that other members have raised. I still seek an assurance that we will look at the code of conduct again and that we will work out collegiately what it should say. That process should go more widely than six or seven MSPs on this committee or 32 council leaders and it should involve individual councillors—women as well as men—who do the job on the ground. When it comes to what a revised code should mean, we should go through a process of co-production.

However, I cannot possibly vote against something that says that bullying and harassment in local authorities are wrong, regardless of where in the country they happen, and that we should encourage people to step forward to make complaints.

Do other members wish to comment?

Graham Simpson: The convener and Jenny Gilruth have spoken passionately about the bullying and harassment section. I would like to clarify that it is not my position that we should not say something about bullying and harassment. I am simply saying that we need to be clearer about what that is. My fear is that, if the revised code is agreed to—although that is not what we are doing today; we are just sending it on to Parliament—it could open the floodgates, with the result that genuine cases of bullying and harassment that need to be dealt with could be lost.

The Convener: That is helpful. Although I disagree with Mr Simpson, it is important to say that, if we agree to the motion today, it will be the full Parliament that makes the final decision. That is absolutely right, because the code is being dealt

with in the same way as an affirmative instrument. That is another reason for supporting the motion.

I do not doubt the integrity of people who take a different view from me on tackling bullying and harassment. However, I do not think that we have a binary choice between looking at bullying as part of reviewing the code more generally and agreeing to the motion now. That is why I will support the motion.

If there are no other comments, I give the minister the opportunity to sum up.

Kevin Stewart: The revised code is before the committee for two reasons. The first is because we must tackle the bullying and harassment issue and we would be failing if we did not do so. The other part of the revision is a result of the request from regional transport partnerships. The reason why that is the only other revision is because that is the only other thing that we have been asked to look at in a very long time. I do not want to say that we have heard nothing about any of the things that we have been discussing, but there have been no requests for any other revision in recent times, whether in relation to section 5, section 7 or any other part of the code.

As I have said, I am willing to look at the code again, after the Standards, Procedures and Public Appointments Committee has reported. I am glad that this committee has taken an interest in the code in the round. The Government looks carefully at any requests for changes to the code, but we have had no requests to revise it recently, other than the request from RTPs, which I agreed that we would consider favourably. We will look at the code in the round.

When the code of conduct came into being, folk said that it would open up the floodgates for many complaints. There were complaints, and many of them were of a sort that previously would not have been dealt with. There were also some vexatious complaints—there always are in a political environment, because that is the way of the world. I do not think that the changes will open up the floodgates this time either.

The discussion in recent times has given people the opportunity to tell folks that they are unhappy about certain aspects of the environments in which they work. We should make that as easy for them as possible. That is why it is right for us to make the change in relation to bullying and harassment as soon as we can. We have COSLA's agreement on the matter. If COSLA was unhappy about it, I am sure that it would have let the committee know. I urge the committee to back the motion.

The Convener: Thank you. We have had a pretty vigorous and open debate, so we will move to a vote.

The question is, that motion S5M-12191, in the name of the Minister for Local Government and Housing, be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
Wightman, Andy (Lothian) (Green)

Against

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

Abstentions

Gibson, Kenneth (Cunninghame North) (SNP)

The Convener: The result of the division is: For 3, Against 2, Abstentions 1.

Motion agreed to,

That the Local Government and Communities Committee recommends that the revised and updated Code of Conduct for Councillors' for the Ethical Standards in Public Life etc. (Scotland) Act 2000 be approved.

The Convener: The committee will report to Parliament on the outcome of the instrument shortly. I thank the minister and his official for coming to speak to us.

Petition

National Scenic Areas (PE1655)

The Convener: Agenda item 5 is consideration of a public petition. PE1655, which was submitted by Christine Metcalfe, on behalf of Avich and Kilchrenan community council, calls on the Scottish Parliament to urge the Scottish Government to review the process for designation of national scenic areas and to consider increasing the number of NSAs in Scotland to protect the natural landscape and support the tourism sector.

Before referring the petition to this committee on 26 March, the Public Petitions Committee received oral and further written evidence from the petitioner, as well as written evidence from the Scottish Government and Scottish Natural Heritage. It recognised that, given that this committee had concluded its evidence taking on the Planning (Scotland) Bill, there would be limited scope for the issue to be considered during stage 1 scrutiny of the bill. In fact, there will be no opportunity for it to be discussed during stage 1 scrutiny, except perhaps in the stage 1 debate. Of course, there is nothing to preclude individual MSPs from lodging amendments, if they so choose, at stage 2 of the Planning (Scotland) Bill, should it reach that stage.

I invite comments from members on what action, if any, they wish to take in relation to the petition. There are two options that we could consider, and I am not precluding others. The first option would be to undertake further work on the petition. If we decide to do so, we should consider what further work we should undertake. Secondly, we could note and close the petition, recognising that the stage 1 report has already been agreed to and that any MSP could lodge amendments at stage 2.

Kenneth Gibson: The text of the petition does not seem to reflect what is intended. It seems to me from reading the detail of the petition that the whole point of it is to restrict and reduce the number of applications relating to wind turbines. If that was the intent, the petitioner should have made that much more explicit in the petition. Therefore, I take the view that we should note and close the petition.

The Convener: Are there any other views?

Andy Wightman: Section 50 of the Planning etc (Scotland) Act 2006 lays out the provisions for designation of national scenic areas. Subsection (1) gives Scottish ministers the power to designate such an area and subsection (4) lays out the matters that Scottish ministers are to take account of in making such designations.

The petition calls on the Parliament to urge the Scottish Government to review the process of designation. It does not suggest what the scope of that review might be or, in particular, what elements that currently have to be taken account of in designating NSAs should be looked at again. As Mr Gibson said, it appears that some of the motivation for the petition is to provide a stronger statutory framework within which to inhibit the development of wind turbines.

The letter from the Scottish Government makes it clear that it is not minded to review the process. It does not see the need for a review, and I do not have sufficient evidence to suggest that the process as laid out needs to be revised.

As the convener made clear, the petition relates to planning provisions. Stage 2 of the Planning (Scotland) Bill is coming up, and it is open to any MSP to lodge amendments if they wish to change the process or any of the provisions in section 50 of the 2006 act. I encourage the petitioners to get in touch with MSPs to discuss how that might be done. In due course, if any amendment is lodged, Parliament and this committee will take a view.

I do not think that there is much more that we can do. I suggest that we note and close the petition, recognising that the Planning (Scotland) Bill is going through Parliament, that the petition relates to planning provisions and that there will be scope over the next eight months or so to make amendments in this field if anyone feels that that is appropriate.

The Convener: It is also worth noting for the benefit of the petitioner that it is not just MSPs who are members of this committee who can lodge amendments at stage 2; it is open to all MSPs to do so.

Members have no further comments. The mood following the two comments that have been made and the nodding heads suggest that we should take the second approach, which is to note and close the petition and make the petitioner aware of potential opportunities for amendments at stage 2 or stage 3 of the Planning (Scotland) Bill.

Do members agree to take that approach?

Members indicated agreement.

The Convener: We now move to agenda item 6, which we previously agreed to take in private.

11:59

Meeting continued in private until 12:30.

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