

# **COMMUNITIES COMMITTEE**

Wednesday 17 March 2004  
(*Morning*)

Session 2

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## COMMUNITIES COMMITTEE 12<sup>th</sup> Meeting 2004, Session 2

### CONVENER

\*Johann Lamont (Glasgow Pollok) (Lab)

### DEPUTY CONVENER

\*Donald Gorrie (Central Scotland) (LD)

### COMMITTEE MEMBERS

\*Scott Barrie (Dunfermline West) (Lab)  
\*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)  
\*Patrick Harvie (Glasgow) (Green)  
\*Campbell Martin (West of Scotland) (SNP)  
\*Mary Scanlon (Highlands and Islands) (Con)  
Elaine Smith (Coatbridge and Chryston) (Lab)  
\*Stewart Stevenson (Banff and Buchan) (SNP)

### COMMITTEE SUBSTITUTES

Shiona Baird (North East Scotland) (Green)  
Christine May (Central Fife) (Lab)  
Shona Robison (Dundee East) (SNP)  
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)  
John Scott (Ayr) (Con)

\*attended

### THE FOLLOWING ALSO ATTENDED:

Mrs Mary Mulligan (Deputy Minister for Communities)

### CLERK TO THE COMMITTEE

Steve Farrell

### SENIOR ASSISTANT CLERK

Gerry McNally

### ASSISTANT CLERK

Jenny Goldsmith

### LOCATION

The Hub



## Scottish Parliament

### Communities Committee

*Wednesday 17 March 2004*

*(Morning)*

[THE CONVENER *opened the meeting at 10:04*]

### Item in Private

**The Convener (Johann Lamont):** Welcome to the Communities Committee. Agenda item 1 is to consider whether to take agenda item 4 in private. Agenda item 4 is to discuss how the committee might deal with discussion in the media of our stage 1 report on the Antisocial Behaviour etc (Scotland) Bill in advance of the report's publication. Do members agree that we should take that item in private?

**Stewart Stevenson (Banff and Buchan) (SNP):** I am not certain that we should take item 4 in private, although I am persuadable. It would probably be of benefit to discuss the matter in public. I cannot think of anything that I expect to hear or say that could not be put in the *Official Report*, but I am interested in other views.

**Donald Gorrie (Central Scotland) (LD):** In principle, I am in favour of always discussing issues in public, if that is possible. Stewart Stevenson may be correct—it is not a third-world-war-starting issue.

**The Convener:** We are working on it, though.

Discussion of the item in private might provide the opportunity for candour, which might allow us to advance the matter. I am more than comfortable about ensuring that the conclusion to our discussion is conducted in public at a later stage. I note that the similar problem that the Justice 2 Committee had has been resolved with a public apology. I am entirely relaxed about whether the initial discussion should be in public or private—I will say the same things in public or in private and I will be open with members.

**Mary Scanlon (Highlands and Islands) (Con):** I do not feel strongly about the issue, but Stewart Stevenson has a point. I am happy to go with the flow.

**The Convener:** In that case, do members agree to take item 4 in public?

**Members** *indicated agreement.*

## Subordinate Legislation

### Draft Housing Support Grant (Scotland) Order 2004

10:06

**The Convener:** I welcome Mary Mulligan, the Deputy Minister for Communities, who has joined us for agenda item 2. Members will be aware that the draft Housing Support Grant (Scotland) Order 2004 is to be considered under the affirmative procedure, which means that under rule 10.6.2 of the standing orders the deputy minister is required to propose by motion that the draft order be approved. Members have received copies of the draft order and the accompanying documentation.

I ask the minister to speak briefly on the draft order.

**The Deputy Minister for Communities (Mrs Mary Mulligan):** The draft Housing Support Grant (Scotland) Order 2004 sets out the amount of housing support grant that will be payable to local authorities in 2004-05. As has been the case for several years, only the two councils with the highest debt per house—Shetland Islands Council and Western Isles Council—will qualify for grant for their housing costs. The total grant that is payable to those councils is about £5.3 million. Housing support grant remains a substantial proportion of total housing revenue account income for those councils. Without the subsidy, rents in those areas would have to increase substantially.

One change from last year—of which I am sure members are aware—is the change to the hostel grant, which will no longer be paid through the HSG statutory provisions. In future, that grant will be paid under the Housing (Scotland) Act 2001. There will be no change in the methodology of calculating hostel grant entitlements. For the record, in 2004-05, 22 councils will be in receipt of that grant, which will total £4.8 million. That compares with the £4 million that is payable in the current financial year.

**The Convener:** As there are no questions, I ask the minister to move the motion.

**Mrs Mulligan:** I move that the Social Justice Committee, following consideration of the draft Housing Support Grant (Scotland) Order 2004, recommends that the said order be approved.

**The Convener:** Of course, this is the Communities Committee.

**Mrs Mulligan:** Sorry. I obviously have last year's speech.

**The Convener:** I thought that you were checking whether we are paying attention. I hope

that you were not trying to sneak something through.

*Motion moved,*

That the Communities Committee recommends that the draft Housing Support Grant (Scotland) Order 2004 be approved.—[*Mrs Mary Mulligan.*]

*Motion agreed to.*

### **Housing Revenue Account General Fund Contribution Limits (Scotland) Order 2004 (SSI 2004/60)**

**The Convener:** Members have been provided with a copy of the order and the accompanying documents. Members have no comments, so is the committee content with the order?

**Members indicated agreement.**

**The Convener:** The committee will therefore make no recommendation on the order in its report to Parliament.

Do members agree to report to Parliament our decisions on the two orders that we have considered?

**Members indicated agreement.**

## **Antisocial Behaviour etc (Scotland) Bill**

10:11

**The Convener:** Agenda item 4 is the leak of our stage 1 report on the Antisocial Behaviour etc (Scotland) Bill. We will consider a paper by the clerk that sets out the procedure that might be followed should the committee wish to take action in respect of the report's leak before its publication.

**Steve Farrell (Clerk):** I said last week that the standards commissioner could not accept a complaint from the committee if the member concerned had not been identified. In this week's paper, I clarify that we can complain direct to the commissioner, but the commissioner must seek the Standards Committee's approval to conduct an investigation into a leak.

The committee can consider whether it is in a position to identify the member who provided the information to the media before the report's publication and whether it wants to raise the issue with the commissioner. If the committee cannot identify that member, it will have to consider whether it wishes to proceed with contacting the commissioner to ask that the relevant procedures be put in place.

**Mary Scanlon:** I have read carefully the advice from the clerk. Paragraph 4 deals with suggestions for proceeding and refers to the question

"whether there is sufficient evidence for a complaint to be made against an individual member."

I do not think that sufficient evidence is available. Paragraph 5 says that the member in question would be invited to comment. I do not think that the evidence is sufficient. It was alleged that I leaked a report on the measles, mumps and rubella vaccination when I had not. I feel strongly about the matter. I am happy to have it in the *Official Report* that the finger was pointed at me because I was that report's author. I would not like to sign up to pointing the finger at anyone unless the evidence was sufficient.

I am reluctantly content to go along with the suggestion in paragraph 3, which says that the committee

"might agree to progress no further."

I hope that the person who leaked the report has learned a lesson.

**Stewart Stevenson:** Having read the article, which the clerk helpfully provided to us, I confess that I think that it contains only one comment that could not have been inferred from evidence sessions and from watching the committee's

deliberations. That comment is about the voting of one committee member. It is perfectly possible to decide that the journalist in question reached a conclusion about what was likely to happen. It would hardly be a surprise to suggest that the SNP, the Tories and the Greens voted against provisions in the bill, because that was made a matter of public record in the evidence sessions.

I wonder whether members agree that the conclusion that the journalist had special knowledge that was not in the public domain is not inescapable and that the article is based on what the committee did, plus one piece of speculative journalism that turned out to be correct. The speculation was relatively easy to make in the circumstances.

If others have a different view, I am content and relaxed about falling into line with them. However, I wonder whether committee members share my view that the article does not necessarily suggest that inside information was involved in drawing it up.

10:15

**The Convener:** The issue is the vote on dispersal. If anybody had been tracking the debate, I do not think that they would have been convinced that all four members of the Labour group would support dispersal and I do not think that they could have judged what the member from the Liberal Democrat group would do from how evidence had been taken. The source that is quoted in the article states explicitly what happened; that information could not have been inferred. Further, the article is not written as if it were based on speculation. People who have more general experience than me may be able to refute my view, but I would not have thought that a journalist who was speculating would have quoted a source as saying explicitly what had happened.

**Stewart Stevenson:** My experience is that—

**The Convener:** I am not suggesting that journalists do not dress up speculation as a lot of different things, but I believe that the article is not dressed up; it states clearly that something has happened. The journalist could not have done that had he merely been tracking the evidence as we took it from witnesses.

**Scott Barrie (Dunfermline West) (Lab):** I agree with what the convener said in answer to Stewart Stevenson. It is not the point that I intended to make, but I will deal with it first. It could not necessarily have been foreseen, from what members said during the evidence-gathering sessions and from what was said by people giving evidence, how the five members who voted as they did were going to vote. On that basis, if on no other, I believe that somebody leaked the vote.

The article would not have been written as it was if the journalist had simply been speculating about the committee's deliberations and what might be in the report.

I am not sure whether what I first intended to say is over the top; members can tell me if it is. We have not explicitly asked members if they leaked information. I would not be averse to doing that because, as Mary Scanlon said, people should examine their consciences. As I said at last week's meeting when we discussed the matter, this is not the first time that a member has leaked information; it has happened on several committees with what seems to be monotonous regularity. However, with few exceptions, people have not come forward to say, "Yes—it was me who leaked the information." We should perhaps be a bit harder on those who seem to think that it is fair to go to the press to state, prior to a report's publication, what will be in it. If we do not do as I suggest, there is no point in doing things under the existing procedure.

**Mary Scanlon:** I support Scott Barrie's excellent suggestion.

**Donald Gorrie:** I have been mulling over the same idea as Scott Barrie on the usual sort of political "It wisnae me" tack. In fact, it wisnae me. However, in so far as there is a villain in the article, it is me.

I believe that the situation is partly as Stewart Stevenson described it, but not entirely so. Much of the article could have been written by an intelligent journalist who had followed, to some degree, the committee's activities. Hard bits of information often come from an unintentional or unguarded remark by a member to a journalist. However, what happens most often is that a member goes back to their office and says, "God, that was awful. We lost that vote," then somebody else passes that remark to a journalist, either accidentally or deliberately. Therefore, it is difficult to track down how a journalist got a piece of information such as that. However, I agree that it is reasonable to ask committee members to state whether they leaked the story.

**Patrick Harvie (Glasgow) (Green):** I go along with most of what Stewart Stevenson said. Before we started taking evidence, if any one of us had been asked to lay £1 against what the crucial votes would come down to, we could have predicted them. I think that the article derives from reasonable guesswork combined with watching the public sessions and asking people about them.

**The Convener:** As somebody who has known her colleagues well over the past five years, I imagined at one stage that I would dissent from bits of the report, but I do not think that my decision could have been called in the way that

Patrick Harvie suggested. Equally, it was not clear how the votes would turn out for other bits of the bill.

Unlike some other reports that I have been involved with, it was not until we finished on the day that I saw the shape of the report that we ended up with. I am being absolutely honest about that. I understand Donald Gorrie's point about making unguarded comments, which I am sure we have all done, but there was something quite determined in this case. For the information of committee members, I confirm that I did not speak to any journalists about the report.

**Campbell Martin (West of Scotland) (SNP):** I agree with much of what Stewart Stevenson and Patrick Harvie said. There is some evidence that the journalist was speculating, because he says

"it is believed MSPs from opposition parties disagreed with ... proposals"

to extend electronic tagging to under-16s. I do not think that we did.

**The Convener:** The odd thing about that was that we were split in a different way on tagging than we were on other things. That is what I mean by saying that things were unpredictable; we did not expect that to happen. On Scott Barrie's suggestion, which was supported by other members, it is reasonable simply to go round the committee.

**Stewart Stevenson:** I am perfectly happy to say to the committee that I am content that the information in the article about the internal processes of this committee and our deliberations did not come from me. However, I want to make clear to the committee the discussions that I had with journalists, so that in a spirit of openness and accountability you will know what I did. It is appropriate to do that, because we often face dilemmas.

Between the session at which we concluded the report and the publication of the report at 8 am on the Friday morning, I had three separate approaches on the subject from journalists. Two were in advance of the article's being published, and both were from broadcast journalists. In both cases I confined my remarks to discussing published public-domain evidence and said nothing about the conclusions that the committee had reached. However, I want to make it clear that I did have those discussions.

The third discussion that I had of which I want to make the committee aware was after the press release announcing publication of the committee report, which was released to the press embargoed. One particular journalist approached me in connection with an interview that that journalist expected to have with you, convener. I

do not know whether it took place; that is a different issue. He was looking for some hard questions for the convener; again, I simply referred that journalist to evidence that is in the public domain and which, for political reasons I concede, I thought it would be appropriate for him—I have eliminated 50 per cent of the population by saying "him"—to raise with you. Of course, that was on the basis that he was preparing material that would be used only after the embargo.

I have given that information at length so that the contacts that I had and my understanding of what I passed on in those contacts is on the record. If members feel that there is anything in my contacts with journalists about which they wish to comment, I would like to hear it. I argued for this discussion to be held in public, so I am content that any comments be made in public. However, I am absolutely content that the substantive issues that relate to the internal discussions of our report did not arise from anything that I said to the journalists between the completion of our report and its publication.

**The Convener:** Thanks very much. We will go round the table.

**Scott Barrie:** I am quite happy to inform the committee that I had no discussions with any journalists on any subject prior to the publication of the report.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** I am happy to confirm that I did not discuss the report with any journalists between our all-day meeting on the Tuesday and the report's publication. We all take our membership of the committee seriously. We put a lot of work into gathering evidence and completing the report. It is disappointing that we feel we cannot trust the people with whom we sit round the table. We disagree with them, but in many cases we perhaps persuade others to change their strong views on issues.

I do not know where we should take the matter, but it seems to me—as other members have said—that reports are leaked so regularly that the code that Parliament established seems to be meaningless to some MSPs. It could be argued that journalists are simply doing their job in seeking information, but if things are to work and we are to have trust in the system, we must find a mechanism to stop such leaks.

**Campbell Martin:** I want to put in the *Official Report* that the only journalist who spoke to me about the report was a broadcast journalist. We spoke after the article appeared and after the embargoed press release had been issued by the clerks.



**Patrick Harvie:** I have had conversations with a number of journalists during the course of the inquiry. Interest levels seemed to increase a bit just after the vote on the Airborne Initiative in particular and I was quite happy—I always will be—to discuss my personal views and anything that had been said in public. I did not discuss the detail of what would be in our report, or who had voted which way. I repeat that there has been reasonable speculation and that is all.

**The Convener:** So you did not speak to journalists between the Tuesday and the Friday.

**Patrick Harvie:** I probably took some calls, but I would have discussed only my personal views and stuff that was public.

**The Convener:** I think that there is agreement. Despite what folk are saying about speculation and so on, it seems that there is evidence that something has been leaked, as the first paragraph of the briefing paper suggests. A specific vote was mentioned. We must decide whether there is enough evidence to suggest that one person in particular has leaked information. Perhaps we are in a more difficult situation in that respect. If we cannot identify someone, I think that we can still refer the matter to the Standards Committee and ask it to investigate further, or we can agree to let the matter be. I am in the hands of the committee.

**Steve Farrell:** I am trying to determine the committee's mood. If the committee decides not to proceed with an investigation, it might be worth—given what members have said—writing to the Standards Committee about the effectiveness or otherwise of the code of conduct in respect of leaks. It appears from what members have said that they are not satisfied that the code of conduct does what was intended. That could be one way forward.

**Cathie Craigie:** One member—Elaine Smith—is missing from the meeting. I had conversations with her on the day on which the article in *The Scotsman* was published and I do not think that she had spoken to any members of the press.

Members have said things differently, but no member has admitted to being responsible for the leak to the journalist. The only other people who were present were the committee's officials, which puts suspicion on them. The Parliament—whether through the Standards Committee or the standards commissioner—must have a proper mechanism for dealing with the matter. The committee has heavy work ahead of it and we do not want to be distracted by the business that we are discussing. Perhaps, as Steve Farrell suggests, we could ask the Standards Committee to consider the matter, not just for the Communities Committee, but for the good of the parliamentary committee system as a whole.

**Mary Scanlon:** I remember the phrase “monotonous regularity” that Scott Barrie used. I am not content not to pursue the matter further, but neither am I content to point the finger at someone without sufficient information. It would be helpful to have a plan that was somewhere in the middle. I do not want to drop the matter—all committees and MSPs would be grateful for some sort of protocol, set of guidelines or code of conduct. The matter should be raised with the Standards Committee, which should move it forward.

10:30

**Stewart Stevenson:** I have total confidence in our clerking team; I am sure that Cathie Craigie did not intend to give a contrary impression or to imply that she thinks otherwise. I want to state that on the record so that members of the committee can agree with me. Although the theoretical possibility that we have mentioned exists, the character of the leak and the blunt manner in which it was been done suggest to me that it is the purview of politicians and not officials. I am quite clear about that.

It is important that we have had this discussion in public. In proposing that the matter be considered publicly, I did not realise the extent to which it would be public. It would be a serious cause for reference to the Standards Committee at a later date if it emerged that a comment made by a member today on the public record, stating that he or she was not the source of the leak, was incorrect. Regardless of the decision we take today in respect of the report, there will be an opportunity if information comes to hand at a later date for the subject to be raised in different ways, not necessarily through the committee. It is important not only that we bear that in mind, but also that it is stated in the *Official Report* that that is the case.

Important signals need to be sent to committees. I agree with Mary Scanlon: in the circumstances, I am a little uncertain about whether it is worth pursuing the issue. As the clerk suggested, it is likely to be worth asking the Standards Committee to consider the matter in general terms.

**Scott Barrie:** I will not prolong the meeting unnecessarily. I agree whole-heartedly with Stewart Stevenson.

**Cathie Craigie:** I, too, agree with Stewart Stevenson. I state for the record that I did not suggest in any way that I do not have the fullest confidence in the clerking team. I merely wished to record that the fact that every member, including Donald Gorrie, has said, “It wisnae me,” places the clerking team in an uncomfortable position.

**The Convener:** There is agreement that the committee regards the matter as serious. Somebody who is good at leaking and covering their tracks should not benefit from that. The fact that we cannot identify a person should not mean that we do not go through the system. I acknowledge the difficulties that have been identified.

Perhaps it would be worth the committee sending a letter to the Standards Committee to express members' concerns about the issues that have arisen today. With the permission of the committee, I will raise the problem at the Conveners Group.

All politicians are, allegedly, tempted to spin things to their advantage. We have all to learn that discipline is needed by committees. We deal with problems as they arise and give matters our collective thought in the public domain before we present them to our best advantage. We have to hold on to such rules; if we do not, we might as well not bother with the positive work that we do, especially scrutiny of Executive bills. Is it agreed that we will write to the Standards Committee and that I will raise the matter at the Conveners Group?

**Members** *indicated agreement.*

**The Convener:** I thank Stewart Stevenson for suggesting that we have the discussion in public—it has been worthwhile and productive. I thank members for their attendance.

*Meeting closed at 10:34.*

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