JUSTICE 2 COMMITTEE

Tuesday 27 April 2004
(*Afternoon*)

Session 2

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JUSTICE 2 COMMITTEE

† 15th Meeting 2004, Session 2

CONVENER

*Miss Annabel Goldie (West of Scotland) (Con)

DEPUTY CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)
*Colin Fox (Lothians) (SSP)
*Maureen Macmillan (Highlands and Islands) (Lab)
*Mike Pringle (Edinburgh South) (LD)
*Nicola Sturgeon (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)
Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
Michael Matheson (Central Scotland) (SNP)
Margaret Mitchell (Central Scotland) (Con)
Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Mrs Mary Mulligan (Deputy Minister for Communities)

CLERK TO THE COMMITTEE

Gillian Baxendine
Lynn Tullis

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Richard Hough

LOCATION

Committee Room 3

† 14th Meeting 2004, Session 2—joint meeting with Justice 1 Committee.

Scottish Parliament

Justice 2 Committee

Tuesday 27 April 2004

(*Afternoon*)

[THE CONVENER *opened the meeting at 14:06*]

Items in Private

The Convener (Miss Annabel Goldie): I welcome everyone to the 15th meeting of the Justice 2 Committee in 2004. I also welcome to the meeting the Deputy Minister for Communities, Mary Mulligan, who is joined by Joyce Lugton, the bill team manager, and Edythe Murie and Norman Macleod, who are solicitors with the Scottish Executive.

The first item is to ask the committee to consider whether to take items 5, 6 and 7 in private. Is that agreed?

Members *indicated agreement.*

Tenements (Scotland) Bill: Stage 1

14:07

The Convener: The second item is our continuing consideration of the Tenements (Scotland) Bill. Minister, we are happy to hear any introductory comments that you or your advisers care to make. Alternatively, you may wish committee members to proceed with their questions.

The Deputy Minister for Communities (Mrs Mary Mulligan): I am aware that the committee has been taking evidence on the bill for some weeks, so it is probably more useful if we go straight to questions.

The Convener: Without further ado, I have a general question about the definition of tenement. One witness from, I think, the Scottish Law Agents Society expressed concern that the definition of tenement could result in the creation of a ransom strip, because the definition is silent on garden grounds, which might become pertinent if there were a demolition of a tenement. Would you or your advisers care to comment on that?

Mrs Mulligan: We recognise that there may be instances following demolition where an area of land is still available. There are two scenarios for such an area of land. One is that it belongs to the ground-floor properties, and the other is that it is shared among the owners of the demolished flats. We want to examine the specifics of that example, as to who would benefit.

I notice, convener, that you used the phrase "ransom strip", which brings with it its own connotations. If the land belonged to the people who lived in the flats, to a certain extent they would have some rights to benefit from the sale of the land, or to control what happened to it. We want to examine further the two scenarios, and see how we can ensure that we have the fairest response possible. It may be, in fact, that the tenement is not the only access to the site and that the land therefore does not become a ransom strip as such, and it may be that the preferred option is to develop the site again. There are a number of scenarios within that issue that we need to consider, and I would like to consider the matter further at this stage.

The Convener: That is helpful, minister. Perhaps, at the same time, you could consider another aspect of the definition: the way in which it seeks to define the physical structure of a building. I am possibly being tedious with semantics, but at an early stage in our evidence taking—it may have been when we took evidence from the bill team,

but I cannot remember—we envisaged that the subdivision of a big villa, more than what we understand to be a tenemental structure in an urban setting, might be likely to lead to a configuration that did not conform to the definition in the bill. That is another aspect that you might wish to examine with your advisers.

Mrs Mulligan: Yes, we want it to be clear to people what we mean by a tenement. It is not only the regular sandstone building that people understand to be a tenement, but it could include, as you suggest, a converted villa, a multistorey block or any other variation on what people assume to be a tenement. We are clear what would be included in the definition.

I appreciate that the nature of the bill means that many detailed aspects will be raised during today's discussion.

Colin Fox (Lothians) (SSP): Will you give us some information on the publicity and information that the Executive intends to use to inform homeowners about the existence of maintenance and management obligations? What kind of publicity programme do you have in mind, when would it start, and how long do you envisage it being rolled out for?

Mrs Mulligan: Mr Fox will be aware that the intention is that, after the bill is passed, it be commenced in conjunction with two other pieces of legislation that have already been passed: the Abolition of Feudal Tenure etc (Scotland) Act 2000 and the Title Conditions (Scotland) Act 2003. We want to renew awareness of those acts and make people aware of what is available under the bill when the acts are all commenced on 28 November 2004.

It is important that people recognise that the bill is part of a package, and we realise that we need to use a number of avenues to enlighten people about the bill. Publications will be available for stakeholders who might be on a mailing list of ours, for example, but we realise that it is also important that owners themselves be aware of the changes in relation to tenements.

We accept that, under our definition, there are something like 800,000 tenements in Scotland. We want to ensure that as many people as possible are aware of the bill's introduction, and we will consider a number of avenues for doing that. We will use the usual media outlets, but we recognise that we have to be a bit more innovative about how we approach the matter to ensure that people are aware of the changes that are being introduced.

Colin Fox: Do you have an idea of the amount of time that you will give to the campaign? You say that it will start in late November, but how long do you envisage that it will run for? Do you have in mind a budget that will be used to convey the information through the media outlets? Eight hundred thousand tenements is a lot, but have you considered the possibility of a direct mail shot?

Mrs Mulligan: I do not have a timescale for the length of the campaign. If we were to produce literature, such as a booklet or leaflet, that would be available for as long as it was suitable for the job that it was asked to do. On the budget, we are looking at a figure of about £25,000 at the moment.

14:15

Maureen Macmillan (Highlands and Islands) (Lab): A number of organisations said in evidence that they support a role for mediation in the resolution of disputes about repairs. They said that repairs are often not carried out in good time because the will of the majority of owners in a tenement can be enforced only through the courts. That is expensive, time-consuming—and perhaps a little scary for most people—so people let things slide until the problem becomes more serious and it is much more expensive to carry out the repair. I understand that the Sheriff Court Rules Council is considering whether parties to a dispute should be encouraged or directed to use mediation and that the Executive has stated that it would prefer to await the outcome of those deliberations, rather than include specific recommendations in the bill. Do you envisage a role for mediation?

Mrs Mulligan: There will be a role for mediation in disputes. The bill envisages that settlements will be reached between private individuals, rather than between individuals and public bodies. Mediation would be most appropriate at that stage and would be useful in ensuring that disagreements do not end up in the courts or lead to unacceptable situations in which people take desperate measures—the committee heard an example of such a situation. It is important that we recognise the role that mediation will have to play.

Maureen Macmillan is correct when she says that the Executive's intention is to review the role of mediation in a number of areas. Members will be aware that I am discussing the Antisocial Behaviour etc (Scotland) Bill with the Communities Committee—I wear a different hat for those discussions—and that there is a role for mediation in the context of that bill. I am sure that other committees can provide examples of areas in which mediation can be used. That is why the Scottish Executive Justice Department is taking the lead in discussions about how mediation can be developed.

There are quite well-developed mediation services in some areas of Scotland, such as Fife, where people use mediation as a matter of course,

but in other areas mediation is almost unheard of. If we are to promote the use of mediation, we must ensure that the service is of a level standard, so that everybody knows what they can expect from it and is entitled to gain access to it on a fair basis. Mediation would be a useful tool for resolving some of the difficulties that might arise in the context of the bill, but it is important that we consider the service more broadly. The Scottish Executive Justice Department is taking that work forward.

Maureen Macmillan: Thank you, minister. It is useful to have your comments on the record.

I raise a slightly different point. Someone might buy a flat in a tenement in good faith for £X, but later discover outstanding bills for repairs. The seller might have disappeared by that time. Currently there seems to be no way of ascertaining whether there are outstanding repair bills. It has been suggested that work that is carried out in a tenement should be registered in an appropriate place, for example in the Register of Sasines, so that when a solicitor carries out a search in relation to a property, they can establish whether there are outstanding bills.

Mrs Mulligan: The bill provides that when a flat is sold, if there is an outstanding liability, for example for a common repair, the other owners can pursue either the buyer or the seller for the money. The provision is identical to one that is in the Title Conditions (Scotland) Act 2003.

However, I recognise that concerns were raised with the committee—at last week's meeting, I think—about someone finding out unexpectedly that they had a liability to pay for such a repair. Following on from the committee's evidence session, we would like to take the issue away and consider it in a bit more detail. Maureen Macmillan has asked whether it would be possible to place a notice so that, when a search is done, the prospective buyer would be aware that there was an outstanding bill to be paid. If we were to place a notice at that stage, would there need to be a limit on the sum involved? Would a notice be used only if the sum involved was £500 or more or would it be used for all outstanding debts? There are a number of issues that we would like to pursue further. We were struck by the evidence that the committee heard on the issue and the concerns that someone would find that they had to pay a bill of which they had been unaware. We will need to give the issue thorough consideration before we respond, but we will come back to the committee on it—in the not-too-distant future, I hope.

Maureen Macmillan: Thank you. That is encouraging.

The Convener: That is very helpful. I think that a similar procedure exists for statutory notices under the elusive acts that we talked about at a previous meeting, whereby those notices are registered against a title, which means that they can be disclosed to a purchaser. They are the known and public responsibility of the seller—there is a prior charge on the proceeds of sale. It was helpful to hear your comments on that.

On a slight variation on the theme, section 15 of the bill places an obligation on every owner to insure. Some questions have arisen about the enforcement of that provision and what will happen when there is non-compliance. The end of the section simply states:

> "The duty imposed … on an owner may be enforced by any other owner."

I wonder how that would work in practice.

On a similar tack, what about obligations for payments under a tenement management scheme? What mechanism is there to ensure that flat owners who did not agree to repairs being carried out would pay up? I would like to hear your thoughts on those two matters.

Mrs Mulligan: On insurance, the bill sets out to make it obligatory for each owner within the property to have reinstatement insurance. I acknowledge that it is perhaps not satisfactory for someone to have to knock on their neighbour's door, ask whether they have insurance and request to check that their policy is up to date. I can imagine some of the difficulties with that but, given that the majority of people are law abiding, the fact that the provision will form part of the bill means that we would expect people to ensure that they had an insurance policy that fulfilled the requirement on reinstatement value.

The Convener: If an owner sought, but was denied, information about another proprietor's insurance, would the ultimate sanction be for them to raise a civil action under section 15, to require production of the policy or the premium receipt?

Mrs Mulligan: Yes, it would. The policy is necessary if there has been a problem. Should it be found that an owner did not have the insurance policy that they were supposed to have, they would still be liable for their share of the costs of the work. That means that it would be open to the other owners to pursue the payment of that share through the courts. Although we are saying that it is preferable for people to have the insurance that they will be obliged to have so that they do not find themselves in those financial circumstances, we recognise some of the difficulties involved.

The Convener: Do you anticipate that the same approach will be adopted to the payers under a tenement management scheme, when dissenting proprietors do not produce the money? Will the

other proprietors have an ultimate right of civil recovery?

Mrs Mulligan: Yes. Because the legislation is very much about the resolution of difficulties between private individuals, ultimately that would be how such a situation would be resolved.

Nicola Sturgeon (Glasgow) (SNP): Some of the evidence that we have heard, which the minister has no doubt read, raises concerns about the service test. Some people are happy with it, but others suggest that it is overly complex and that it might lead to disputes. In general terms, do you have anything to say in response to that?

Mrs Mulligan: The principle of the service test is that of what is available "at this stage". For example, if pipes to someone's property are being used "at this stage", the person would be obliged to take responsibility for those pipes; they would become part of the person's property.

Another example is that of chimney and flue. If an owner has access to the chimney, it would be their responsibility. A question was asked about whether it would make a difference if the person bricked the chimney up. It would not, because they would still have access to it. The person may have chosen to brick it up, but they would still have access to it so they would still have responsibility for it.

Before Nicola Sturgeon comes back to me, I know that there was also a question on water tanks and I will respond to it. I say at the outset that the question has caused some consternation. First, we do not completely accept that everybody would suddenly stop using their water tank. However, should they do so there are obviously concerns about maintenance of the tank and how that would be managed. I admit that we need to continue to deliberate on the matter. If everybody opts out of having responsibility for a water tank there will be some difficulties.

Nicola Sturgeon: I appreciate the difficulties; I do not think that anybody finds it easy to say what the right way forward is.

You are right about the question that was posed. If somebody has access to something and they voluntarily cut off access to it, do they still have to share responsibility for it? Your answer seems to be yes, because it is their decision to cut off access to it. What would happen if the person sells the property and a new person comes in? Theoretically, if they chose to tear down a wall they could re-access the chimney, but in reality they are not served by it. Would the new owner still be liable for a share of the costs?

Mrs Mulligan: I think so, because they would still have the ability to use the chimney should they choose to do so.

Nicola Sturgeon: It is not an easy issue, but over the years would that not become increasingly fictional and undermine the service test? After 20 or 30 years the idea that somebody is still served by something would be difficult to sustain in reality. The test might become a bit incredible and people might lose confidence in it.

The Convener: I am sorry, but there seems to be a problem with the sound system.

Nicola Sturgeon: I apologise: it is my mobile phone. I thought that I had switched it off.

The Convener: It is our resident recidivist.

Nicola Sturgeon: There was no need to point that out.

Mrs Mulligan: I recognise the practicalities of what Nicola Sturgeon is getting at. It is not my role to speculate on what might develop, but maybe if I could—

Nicola Sturgeon: It is not your role to speculate on what would develop, but—

The Convener: Would you like to consult your advisers, minister?

Mrs Mulligan: Yes.

Generally, the view is that because there is still the ability to use the chimney it would still be part of what is under their ownership. I understand what Nicola Sturgeon is suggesting. We may need to consider the issue more deeply and to respond to the committee in writing. If someone does not know that they have a chimney, a service test may be impractical.

14:30

Mike Pringle (Edinburgh South) (LD): The hypothetical example of a water tank to which six people have access—three or four of whom decide to cut themselves off from it—was given. The bill implies that the remaining two people would be entirely responsible for the tank.

My question relates to section 2, on tenement boundaries, and such issues as roof spaces. Section 2(7) implies that the person who lives in the top flat would be allowed to extend his flat into the roof space. That provision raises all sorts of serious problems. Would the minister like to comment on it? The issue was raised by the Law Society of Scotland.

Mrs Mulligan: If the roof space belongs to the owner of the top-floor flat, he may have the opportunity to extend into it. However, if the roof space is within the ownership of everyone in the tenement, he would need all the owners to agree to that. Those people might feel that they were giving up part of their ownership and require compensation for doing so. There is nothing in the

bill that would prevent that negotiated process from taking place. However, whatever the title deeds or the tenement management scheme said about where responsibility for maintenance of the roof lay would have to be taken into account when resolving the issue. As an ex-councillor, Mr Pringle will know that the owner of the top-floor flat would also need building warrants and planning permission to carry out the extension.

Mike Pringle: Absolutely. However, this is a concern.

Mrs Mulligan: There is a process to be gone through. I have come across examples of people thinking that extending into the roof space is the right thing to do, as well as examples of people thinking that it is the wrong thing to do. We cannot legislate for individual circumstances, but we need to ensure that there is understanding of who owns the roof space and of who is responsible for maintaining the outer roof.

Maureen Macmillan: This debate raises issues of how tenements are changed over the years. Chimneys are bricked up, attics are developed and so on. When we took evidence from surveyors, they made an interesting point. They said that no two surveyors will get the same dimensions when they measure a flat, because they all do things differently. They mentioned that there might be alcoves that had been boarded over—I am sure that other examples could be called to mind.

The point that the surveyors made is relevant to the provision that the cost of repairs should be shared equally among owners, except where the largest flat in the tenement is one and a half times the size of any other flat in the tenement. A flat that may have started out being one and half times bigger than the other flats may through judicious boarding up of alcoves come in under that figure. Perhaps we should always go back to the original dimensions and use of flats when we make calculations. What do you think about that suggestion?

Mrs Mulligan: The choice of the figure of one and a half is a purely practical issue. It is a way of demonstrating that one owner has a bigger liability than others. I am a little puzzled by the assertion that two people could measure the size of a flat and come up with different figures.

Maureen Macmillan: The point was made in evidence to us.

Mike Pringle: We, too, were surprised by it.

Mrs Mulligan: Even where that is the case, I would not expect the figures to be very different. Surely boarding up an alcove will not take much out of a property. I would still expect there to be that general, overall difference in size that would indicate whether the flat was one and a half times bigger. It could be argued that that might not be the case.

Maureen Macmillan: There might be borderline cases, but I take what you say.

The Convener: I wish to clarify a point in connection with the measurement formula. Would any account be taken of attic space?

Mrs Mulligan: The bill's explanation of that might be clearer than mine. Section 25(2) explains how the floor area is to be calculated. The floor area is the total floor area within the boundaries of the flat. No account is to be taken of any balcony or pertinents attaching to the property. An attic or a basement will be excluded if they are used solely for storage purposes and not as part of the living space. If the attic is used as part of the living space, it would be included in the calculation of the floor space of the flat. I hope that that is helpful.

Karen Whitefield (Airdrie and Shotts) (Lab): If you have been following the committee's evidence taking, it will probably not come as a surprise that I want to ask about the tenement management scheme. We have had various evidence on the TMS and whether it should be the default position when the title deeds are silent or should apply irrespective of what the title deeds say. I am keen to learn why the Executive has chosen to make it a default scheme and how it will address members' concerns about owners of tenements whose title deeds do not give them the same protection as they would have under the TMS in relation to repairs.

Mrs Mulligan: I refer to the earlier question, "What is a tenement?" A tenement could be one of the sandstone buildings that we see in cities or it could be a four-in-a-block property, a converted Victorian mansion or a multistorey high rise; in fact, it could even be an office block. There are so many different definitions of tenements that the Executive felt strongly that the most appropriate way to deal with them was by reference to something that is specifically about the buildings, which is the title deeds that come with them. It was felt to be important that, where title deeds exist, we do not seek to remove them and try to provide a one-size-fits-all solution for tenements.

However, the Executive recognises that there are title deeds that are not comprehensive and which do not respond to every aspect of the management and maintenance of a property in a way that enables disputes to be resolved or ensures that the properties are looked after. Therefore, the tenement management scheme will be constructed to resolve the gaps in people's title deeds. It is not the case that the tenement management scheme will come into operation only

if someone does not have a title deed. The seven rules of the tenement management scheme that are laid out in the schedule will kick in where there is a gap in the title deeds. For example, if the title deeds say, "All the owners are responsible for the roof space," but do not say what proportion of payment they should make towards the maintenance of the roof space, the tenement management scheme will decide that. It is about filling in the gaps.

From the committee's evidence sessions, I am aware that there have been varying views on the matter. I am also aware that my former colleague, Councillor Gilmore of the Convention of Scottish Local Authorities, implied that local authorities, particularly in the cities, are of the view that the tenement management scheme should be introduced and title deeds should be done away with. I have to say that I think that that stretches the point, because that is the City of Edinburgh Council's position but it is not Glasgow City Council's, Aberdeen City Council's or Dundee City Council's position. Other local authorities have a different view. It is important to recognise that they acknowledge that it is important to use the most appropriate mechanism. In the day-to-day management of tenements, that will be the title deeds rather than the tenement management scheme, because they relate specifically to a tenement. However, where necessary, the tenement management scheme will kick in to provide for gaps in the title deeds.

Karen Whitefield: Personally, I am reassured by that, because it is important that any benefits of the TMS are available to as many people as possible. My concern was particularly for people who have title deeds that are not entirely silent, but they will be able to get any benefits of the scheme if their title deeds are considered to be deficient, so that is helpful.

On rule 1, on the scope and interpretation of the TMS, you mentioned chimneys and chimney flues in responding to Nicola Sturgeon. Last week, COSLA raised concerns that chimneys are excluded under the definition of "scheme property". I have checked rule 1.3(c) and it does say that

"any chimney stack or chimney flue"

will be excluded from scheme property. Last week, Angus Council made representations to the committee through COSLA, saying that it found that situation problematic. It thought that chimneys and chimney flues should be included in any definition of scheme property. I wondered whether the Executive would be willing to reconsider the matter in the light of those representations.

Mrs Mulligan: I said earlier that I understood that some of the discussions would be very specific. That point is one on which we now have a response. As Karen Whitefield has said, scheme property is defined in rules 1.2 and 1.3 of the tenement management scheme. Rule 1.3 excludes chimney stacks from the definition of scheme property in rule 1.2(c). However, it does not exclude chimneys from the definition of scheme property in rule 1.2(a) or rule 1.2(b). Where a chimney is owned in common by two or more owners, it will be scheme property under rule 1.2(a). What I am trying to say is that, although it looks as if that has been excluded in one part of the bill, it is included.

Karen Whitefield: Thank you for that clarification.

The Convener: I am sorry, but I do not understand that. [*Laughter.*]

Mrs Mulligan: I can read it again if you want.

The Convener: Going back to first principles, I understand that the scheme will apply only if the deeds are silent or do not apply uniformly to each flat. Is that correct?

Mrs Mulligan: Yes.

The Convener: Before the scheme applies, the deeds must either have full provision for all flats or be inadequate. Is that right?

Mrs Mulligan: If the chimney is not part of common property, it would be the responsibility of only one person anyway.

The Convener: Under the pertinents provision.

Mrs Mulligan: Yes, which is why it is excluded from rule 1.2(c). The effect of the—

The Convener: This is quite important. You see, as I understand it, rules 1.1 and 1.2 do not apply to anything unless we have got a tenement management scheme. However, we will get a tenement management scheme only if our title deeds are silent or deficient, so how could the chimney be common property? If I understood you correctly, you said that the chimney would have to be used in common to be covered, but that takes us back to all the difficulties with flues blocked up and one person using the chimney and other people not using it.

14:45

Mrs Mulligan: If the chimney is not common property in the title deeds, under section 3 it will be the common property of the owners of the flats that it serves. Rule 1.3(c) will exclude only chimneys that serve only one flat. If the chimney serves only one flat, it is not common property. However, if it serves more than one flat, under rules 1.2(a) and 1.2(b), it would be part of the common scheme and so would be covered.

The Convener: Right.

Karen Whitefield: We should leave chimneys and flues there.

Mrs Mulligan: Are they a burning issue in Angus?

Karen Whitefield: I want to move on to rule 3.4 of the TMS, which is slightly easier to understand than the rule about what is included and what is not included. The rule allows that where owners have decided that a repair needs to be carried out, money to meet the cost of it can be deposited in a bank account to allow for payment. Last week, we took evidence from the Property Managers Association Scotland Ltd, speaking as a landlords organisation, which raised concerns that the rule also allows for money to be repaid to individual owners after 14 days if the repair has not been carried out. The association was particularly concerned that the rule will be unworkable. It understood the principle behind it, but felt that 14 days was too prescriptive a period to allow for the gathering of quotes, for the owners to decide whether the work could be done and for the work to be undertaken. It was slightly concerned that we could have a situation in which, although most owners agree that the repair needs to be done and so pay in the money, someone might not pay in, which would mean that the money would have to be paid back and that the owners would have to try again to get the repair done. Even when everyone pays in, the owners might not be able to get anybody to do the work within the necessary timescale. The association wondered whether the measure was workable.

Mrs Mulligan: The crucial issue is the starting point for the 14 days. Karen Whitefield has outlined a number of steps that might need to be taken to ensure that the work goes ahead. There is nothing to stop that happening prior to the money being deposited. Therefore the starting point for the 14 days could be when a number of steps have already been taken. The starting point is in the gift of the owners; they can decide when the 14 days start, so it would be sensible for them to get quotes and ensure that agreements to the building work are in place before that.

The reason for the establishment of the 14 days is to protect people who might have paid their money, but find it sitting there for months before anything happens, which they might feel insecure about, given that the sums of money in question could be large. That is the reason for restricting the period to 14 days.

Mike Pringle: I want to explore a couple of issues around the TMS. The City of Edinburgh District Council Order Confirmation Act 1991 is restricted to Edinburgh. Edinburgh has a unique way of dealing with property repairs, and I want to be sure that the bill or the TMS rules will not change that.

Mrs Mulligan: The simple answer is that they will not.

Mike Pringle: That is good. My second question is on the rule about majorities. Under the tenement management scheme, a majority will suffice. My concern is that that is not extended to all other common repair schemes. From my experience in Edinburgh, one of the major problems is the requirement to get everybody to agree to something—that is the reason why so many common repair cases go to statutory orders and, as a result, are taken on by the council. If majority decision making was extended to all schemes, that would help.

Mrs Mulligan: As you are aware, when title deeds are silent, unanimity is usually required and the common law would state that there must be unanimous agreement. However, when the tenement management scheme kicks in, it will allow majority ruling on the matter. The service should be no less than at present. If I am right to say that Mr Pringle's concern is about what happens in relation to statutory notices, particularly in Edinburgh, I reassure him that we do not expect the bill to make the situation worse. Schemes will still be able to operate in the way in which they have been operating.

Mike Pringle: My other question is on a matter that Ken Swinton raised at our meeting on 30 March. He talked about load-bearing walls, particularly in modern tenements that have glass fronts. Is a glass front load bearing? Is it considered to be a window or a wall? I quote from the *Official Report*:

> "If it is a wall, it is part of scheme property; if it is a window, it is part of the individual flat"—[*Official Report*, *Justice 2 Committee*, 30 March 2004; c 673.]

That issue needs to be addressed.

Mrs Mulligan: My understanding is that where it is a wall, it will be part of the scheme property and where it is a window, it will be the responsibility of the individual. How one makes that decision when both the wall and the window are glass comes down to the design of the building; it will be clear from the design which parts are walls. A wall does not have to be load bearing to be a wall—that is the point that we need to get across. What is the wall and what is the window is open to interpretation depending on the design.

Mike Pringle: My question about floor area has already been answered.

Jackie Baillie (Dumbarton) (Lab): I turn the minister's attention to legal aid; I certainly have more understanding of legal aid than of chimneys. The Scottish Legal Aid Board, in its evidence to

both the Justice 2 Committee and the Finance Committee, raised a fundamental concern about regulation 15 of the Civil Legal Aid (Scotland) Regulations 2002. In essence, it said that, under the bill, the financial position of all the flat owners is taken together. An owner may be eligible for legal aid, but they could be prohibited from receiving it because of the financial circumstances of the other owners. It is clear that people might not choose that degree of enforcement because of the disproportionate financial burden. Will the Executive address that?

Mrs Mulligan: You will be aware that disputes can end up being resolved in the courts, so people may need to apply for legal aid. It is important to be clear that when someone who is part of a joint action is ineligible for legal aid and so may be assumed to be responsible for payment, concern may be felt about how the other people will be enabled to have legal aid. However, in many such disputes, receiving a letter from a solicitor has an influence on people's response. We do not expect many cases to end up having to be resolved in court, but we recognise that we must consider all instances and outcomes.

One problem is that some may use the legal aid issue as a reason not to take action. That could create delay. It could be up to some co-owners to proceed without somebody who is seeking or has not been granted legal aid. Negotiation among owners might conclude such a matter. I would like to take the opportunity to consider legal aid further. Although it is not in the gift of the bill to change the position, I recognise the implications for ensuring what we all seek—a satisfactory resolution to the maintenance and care of our tenement stock.

Jackie Baillie: That is helpful.

The Convener: Before we go on to the other aspects of extrinsic evidence for tenement management schemes, I will ask about one matter that I still do not understand—I am sorry to be tedious about it. I understand that the bill's definition of a tenement envisages a structure with divisions and two or more flats and that its guidance about decision making is that if a tenement has three flats or fewer, unanimity is required before anything can be done. What happens if the trio has a dispute? Would people in a subdivided Victorian villa be permanently locked into discord?

Mrs Mulligan: We said that the majority voting resolution applied only if four or more owners were involved because if two owners were involved, a majority would not be possible, and if the vote were split, resolution would be needed. As we suggested, mediation might be one way to resolve such a difficulty. We must accept that resolution through legal means might be needed when only two owners are involved.

We did not accept a majority decision among three owners because we did not want to allow any individual owner to be continually overruled by two owners who were working together—perhaps colluding—to take decisions that one owner found financially unbearable. It is important to have unanimity in such a situation, to prevent discrimination against one owner. However, we must acknowledge that if unanimity cannot be reached, resolution through the legal process may be needed. That is the reasoning behind making four owners the threshold for resolution through majority voting.

The Convener: What legal process will apply when a building with three flats does not have adequate clarification in the title deeds and so the tenement management scheme operates? What will be the basis for action by the unhappy duo against the third owner?

Mrs Mulligan: I am sorry; I did not quite understand that.

The Convener: If the title deeds for a structure with three flats are silent, under the bill the tenement management scheme will kick in to regulate the position. However, the scheme requires unanimity. If there is no unanimity, repairs will not happen. So, what is the legal basis for a hapless duo, who are in the majority if there are three flats, who want to get repairs done but cannot because they have to work under the statutory tenement management scheme? On what legal basis could action be taken against the third person?

15:00

Mrs Mulligan: I suspect that your concern is over what happens when the minority wants to act but is not able to because it cannot achieve unanimity. In those circumstances—

The Convener: No—my concern is over the majority, when two out of three want to act but cannot because they need unanimity.

Mrs Mulligan: The process in that case would be for people to apply to the sheriff court for the necessary repairs to be carried out. I think that I am right in saying that that has to be part of the bill so that it is possible to ensure that work is carried out.

The Convener: Thank you; that is helpful.

Nicola Sturgeon: We have already covered the fact that the TMS is a default scheme that will apply only when title deeds are silent or inadequate. The Law Society of Scotland has said that the TMS should override the title deeds. On

the apportionment of costs, the society mentions some extrinsic evidence such as feu duty, rateable value and equitable shares. The society's view was that, in this day and age, it is difficult to decide what costs should be if they are based on those kinds of apportionment. Do you sympathise with that view?

Mrs Mulligan: As I said earlier, our intention was not to override the title deeds because we felt that the deeds were probably the most appropriate way of resolving such matters. When there has been a division of a property, for example, some properties will be bigger than others and the rights in decision making will be apportioned differently. It is appropriate to recognise such divisions within properties.

You mentioned feu duty in the flats in a block as a mechanism to determine payments. Obviously, there are different ways of doing that. We understand that the Keeper of the Registers of Scotland, when making up title sheets for flats as they are registered in the Land Register of Scotland, enters a statement about the feu duties apportioned to the flats. That will continue to be the case even after the abolition of the feudal system, which will happen under other legislation. That will ensure that the apportionments are still applied, so there will still be a way of resolving such issues. Some may think that that is unfair, but it will be understood and would be difficult to change at a later date.

Nicola Sturgeon: I was not aware of that but I accept that it is the case. It is the case for the feu duty, but is it also the case if the reference in the title deeds is to rateable value?

Mrs Mulligan: Yes. The valuation rolls could be consulted so that people would know in advance.

Nicola Sturgeon: What about situations in which the title deeds refer only to equitable shares? How would that be defined?

Mrs Mulligan: If the title deeds refer only to equitable shares, that would be not be clear enough. The TMS would kick in at that stage.

Jackie Baillie: I will be quick, because some of the points about insurance have been covered. Everybody supports the aspiration behind section 15, but there are concerns about enforcement. If I picked you up correctly, essentially it is up to the individual to access and to police insurance, after which they have access to the courts. There are no penalties if people do not comply.

Mrs Mulligan: There are no statutory penalties. People are obliged to have insurance, because that is what the legislation says.

Jackie Baillie: So we are relying on people being decent.

Mrs Mulligan: Yes.

Jackie Baillie: Therefore the aspiration behind section 15 might not become a reality.

Mrs Mulligan: It is in people's interests to have insurance, because they would be obliged to make their contribution even if they did not have insurance, which might be more of a burden. While we are relying on people being decent citizens, we are also relying on them to understand that that might be a heavier burden, and therefore that there might be an easier option.

Jackie Baillie: Let us take an example in which somebody cannot access insurance. The notable case that we were presented with was Hooper v Royal London General Insurance, in which somebody had a previously undisclosed conviction as an arsonist. Irrespective of whether the insurance was block insurance or individual insurance, that person would not have been able to access insurance at all. In order to achieve your policy objective, have you had discussions with the Association of British Insurers about such instances?

Mrs Mulligan: We have had discussions with the insurers about those issues. If somebody was unable to get insurance because they had previous convictions, such as in the example you gave, they would still be liable for their share of the costs of whatever work needed to be carried out.

It is important to point out that in our discussions with the insurers we considered whether a joint insurance policy for the tenement was the preferred option and whether such policies would ensure that everybody contributed. As was pointed out—I do not know whether this is in your evidence—the risk is that if an owner did not pay up, the policy would be negated, which could leave everybody in the building without insurance. That is why we have not pursued that option, although at some stage ensuring that everyone is insured may have seemed attractive.

Jackie Baillie: I have one final, small point. It struck some of the people who gave us evidence as slightly strange that somebody who had a fraud or arson conviction could demand to see the insurance policies of other people in a common close, yet their policy could not be seen. Can we examine that further?

Mrs Mulligan: Yes.

The Convener: For clarification, is it correct that although the bill has no mechanism for compelling people to have insurance, it gives grounds on which other proprietors can take action under civil law?

Mrs Mulligan: Yes. We cannot compel people to take out insurance. It is interesting to note that the insurance people themselves seem reluctant

to make insurance obligatory. They felt that that was not the way forward. However, other proprietors can pursue the matter through civil law.

Mike Pringle: Section 17 makes provision for how the cost of partial demolition of a tenement building should be allocated among owners. How would you respond to the view that several people have expressed to us that partial demolition often benefits those units in a tenement that remain, and that therefore the owners of such units should be liable for part of the costs as well?

Mrs Mulligan: I accept that they may benefit, but the demolition is the responsibility of the owners for whom it is taking place. It would be difficult for the situation to be otherwise. I am comfortable with what is proposed.

Mike Pringle: Section 20 deals with the sale of abandoned tenement buildings. The issue exercised Ken Swinton from the Scottish Law Agents Society, who was very unhappy with the word "return" in section 20(1)(b). For example, someone could buy a flat that had just been emptied and, despite the fact that all the other owners might have been working together to repair the building, he or she might decide to use the provisions in section 20 to get rid of all the property.

Mrs Mulligan: We are considering procedures that will protect owners in such circumstances and allow them to lodge objections to one person taking such an action.

Mike Pringle: So you are taking action on that matter.

Mrs Mulligan: We are pursuing it.

Mike Pringle: My final question concerns owners associations, which are not a devolved matter. We have received evidence expressing hope that the Executive might consider the matter, because it seems very unfortunate that such associations should be excluded from the whole process.

Mrs Mulligan: We acknowledge the benefits of owners associations, particularly in bringing owners together to manage properties and to ensure that they are well looked after. We are pursuing the matter with our Westminster colleagues and hope to resolve it fairly soon. Indeed, I hope to be able to return to the committee with that information in the very near future.

Mike Pringle: Great.

The Convener: As you will see from our agenda, minister, we will consider our approach to the stage 1 report on the bill later in the meeting. Although the matter is not germane to that consideration, it might help committee members if you can share any information about what the proposed private sector housing bill might cover.

Mrs Mulligan: As the housing improvement task force made a number of recommendations that will need to be taken forward through other legislation, the Executive has proposed the introduction of another housing bill during this parliamentary session. We should make it clear that while the Tenements (Scotland) Bill focuses on the relationship between individuals, the proposed private sector housing bill will focus on the relationship between individuals and public bodies and between public bodies themselves.

At the moment, the proposed bill is at a very early stage. However, given that some of the provisions will be based on the housing improvement task force's recommendations, it will not be beyond members' imagination to see what might need legislation and what might well be included in the forthcoming bill.

The Convener: Thank you for that helpful response.

As members have no further questions, I thank the minister and her advisers on behalf of the committee for attending the meeting. We will let you go and get towels and ice to wrap around your respective advisory heads.

Prisoner Escort and Court Custody Services Contract

15:14

The Convener: The next item is consideration of the minister's statement on the prisoner escort and court custody services contract. Given recent events, I felt it appropriate to include the item on the agenda; however, it is obviously for the committee to decide what further action, if any, should be taken.

I have asked my clerks to give me sight of our timetable for the next few weeks and I must say that the word "tight" is a euphemism. It may be helpful for members to take that into account in their discussions. We have a very full committee schedule. Joint meetings with the Justice 1 Committee are coming up tomorrow and next week in our committee slot in connection with the budget process. There is another joint meeting the following week. We must also deal with our draft stage 1 report on the Tenements (Scotland) Bill. That takes us to 11 May. Beyond that, we must finalise the stage 1 report, and we have also penned in our youth justice inquiry, which will begin in early June and proceed thereafter. Stage 2 of the Tenements (Scotland) Bill will also take place in June. My aim is to provide members with an aide-mémoire of the current work load. Having given that initial guidance, I am open to suggestions from committee members.

15:15

Nicola Sturgeon: I appreciate fully the fact that the timetable is tight and that if we decided to take action on this issue we would have to rejig something else. Let me make my opening gambit. Given that we will start our youth justice inquiry in June, I assume that we will come nowhere near finishing it before the summer recess. We may want to decide to commence the inquiry at the start of the new term rather than in June. That is one possible way of rejigging the timetable.

I hope that, now that the dust is beginning to settle on the issue of Reliance Secure Task Management Ltd, it would be worth while for the committee to consider some remaining issues. We should focus not on what happened when Reliance took over the contract but on the period before that. In particular, there is a need for us to consider the period of the negotiation of the contract, running up to the awarding of the contract. It strikes me that one aspect of the issue is still shrouded in confusion. We know that Reliance worked on an implementation plan that became part of the contract. The next thing that we know is that when the company took over the contract, it transpired that it had underestimated completely the scale of the task that it had to undertake. It is less clear how that was allowed to happen—to put the matter in simple terms. What controls were exercised and what involvement was there on the part of Scottish Executive officials and ministers or Scottish Prison Service officials? That area is very unclear to me.

It is important that we know what happens when such major contracts are awarded. Who is in charge? Who ensures that the company that gets the contract is prepared for the job that it must do? If we were to consider those questions, we might learn lessons not just about this case but about similar contracts that are awarded in future.

The Convener: What do you have in mind? Are you suggesting that the committee conduct an inquiry?

Nicola Sturgeon: Yes. Obviously, we would have to decide exactly what the scope and length of the inquiry should be. I believe strongly that someone must examine the period to which I have referred. If we do not conduct an inquiry, we will not know what happened. Reliance prepared and submitted its implementation plan at one end of the process, whereas at the other end it became clear that the company had completely underestimated the task. No one seems to know whose job it was to ensure that that did not happen.

The Convener: Nicola Sturgeon has proposed that the committee should engage in some form of inquiry.

Karen Whitefield: It is understandable that there has been considerable concern about what happened at Hamilton sheriff court and about the conduct of Reliance. People are still seeking assurances on that issue. Last week, the Minister for Justice was keen to answer members' questions on the matter. I am not sure whether at this point we need to conduct a full-scale inquiry. However, we should ask representatives of the Scottish Prison Service and Reliance to appear before the committee. Before we commit ourselves to holding an inquiry, we should hear from both organisations and have them deal with some of our questions and outstanding concerns. Once we have done that, we will be in a better position to make a judgment on whether we need to conduct a full-scale inquiry, especially given that the committee has already made a number of commitments and has a number of legislative obligations that it cannot push to one side.

The Convener: Can you clarify the structure that you propose? Do you suggest that we slot a couple of evidence-taking sessions into a committee meeting?

Karen Whitefield: Yes.

The Convener: What do other members think?

Colin Fox: I am sympathetic to both suggestions. I am not sure what the difference is between having an inquiry, as Nicola Sturgeon proposed, and bringing both groups before the committee, as Karen Whitefield suggested. Either way, we should hear from people from Reliance—if they will come—the Scottish Prison Service and perhaps the Minister for Justice or the Deputy Minister for Justice. Those are the three parties that are involved.

The Convener: By way of general guidance—I am sure that members will correct me if I am wrong—the procedure for an inquiry is normally that we agree a remit, take evidence from a fairly wide-ranging group of witnesses and then prepare a formal report for publication. A committee would not normally anticipate concluding an inquiry in fewer than two or three meetings that would be entirely devoted to the matter. As I said earlier, we would have a slight timetabling problem if we wanted to do that. That would be the difference between the proposal that we hold an inquiry and Karen Whitefield's suggestion that we try to slot in some evidence-taking sessions so that we hear from two of the critical operators in the sectors that have been affected by recent events.

Jackie Baillie: I support Karen Whitefield's proposal, because there is another subtle difference at play. Currently, people—in particular, the general public—want to be reassured that the contract is robust and that the problems that have been experienced since the start of the contract will not recur.

I understand Nicola Sturgeon's desire to consider the circumstances that led to the contract being awarded, but if we are to have any cognisance of what the public want, we should ensure that the existing contract is robust. A couple of evidence-taking sessions would meet that requirement and enable us to act swiftly.

The Convener: I am grateful to Jackie Baillie for that. The clerks are whispering in my ear about our timetable. We are presented with the outline that I gave earlier; if witnesses could attend, we might manage to have an evidence slot on Tuesday 25 May. At that meeting we will try to finalise our stage 1 report on the Tenements (Scotland) Bill, so there might be a little more space in the schedule.

The youth justice inquiry is scheduled for the first two meetings in June. I listened to Nicola Sturgeon's suggestion that, in effect, we consider postponing that inquiry—

Nicola Sturgeon: Only if that were absolutely necessary.

The Convener: The committee will undoubtedly be involved in the legislative programme that is anticipated for the autumn and I am slightly concerned that we might get too many ropes around our feet. I am just giving the committee a little factual information about the timetable that lies ahead.

Nicola Sturgeon: I do not think that there is a great difference between my suggestion and Karen Whitefield's proposal. Given that I am suggesting that we consider the issues around the negotiation, awarding and detail of the contract, I cannot envisage that we would want to take evidence from anyone other than the Scottish Prison Service and Reliance—and the minister or Scottish Executive officials, who are part of that tripartite structure of responsibility, because the Scottish Executive is responsible for the Scottish Prison Service.

Colin Fox: I take Jackie Baillie's point about public anxiety. I entirely understand and it is quite right that we should be procedurally locked into a static timetable. However, another escape—God forbid that that should happen—would tip the balance and push us towards holding a more formal inquiry. I hope that that will not happen, but I sense that it might be the catalyst that would oblige us to hold an inquiry into the matter.

The Convener: The discussion is helpful. Are there any other comments?

Maureen Macmillan: I agree with Karen Whitefield. It is important that we find out what the relationship is between the Scottish Prison Service and Reliance and who was responsible for training Reliance staff. There seems to have been a mismatch between what one group expected and what the other group delivered.

Nicola Sturgeon: I agree. I am not trying to make a political point, but when we get down to the nitty-gritty, it is equally important to establish the relationship between the Scottish Prison Service and the Scottish Executive. We must consider that arm of the matter.

The Convener: Let me draw some strands together. Either the Justice 1 Committee or the Justice 2 Committee must be seen to be taking an interest in what happened, and the Justice 2 Committee has the first opportunity to do so. The issue was a significant development that deeply concerned persons working in the sectors affected—the Scottish Prison Service, the court system and the police force—and the public. I sense from members' comments that we would be content with an evidence slot, and there seems to be a consensus that the slot would involve Reliance and the Scottish Prison Service. I support Nicola Sturgeon's view. If we are to take evidence, it would seem a little strange not to have

the Executive present, in the form of either the Minister for Justice or the deputy minister.

If I am correct, members agree that, as soon as we can, we will slot into a meeting evidence from the Scottish Prison Service and Reliance. I am less clear whether members agree that that slot should include either the Minister for Justice or the deputy minister. Is there any disagreement on that?

Mike Pringle: Are the minister or deputy minister the appropriate people, or should we speak to the civil servants who are responsible for the contract in the Executive?

The Convener: We can anticipate that the minister would be attended by officials and advisers.

Karen Whitefield: The minister has made clear her role in what happened. She has answered a number of questions on the subject on the record in the Parliament. My preference would be to reserve our position on whether either the minister or the deputy minister needs to appear before the committee. When we have heard from Tony Cameron, who is the chief executive of the Scottish Prison Service, and from Reliance, we may well have questions that still need to be answered, although I am not sure whether that will be the case. Initially, the most important groups from which to hear are the SPS and Reliance.

The Convener: Nicola Sturgeon has indicated that she wants to speak. I do not want to dwell on the matter unnecessarily; I want to come to a decision.

Nicola Sturgeon: I will be brief.

With the greatest of respect, even after the minister's statement last week, I still do not know what the Scottish Executive's role was during the negotiations on and awarding of the contract. I know what the minister's role has been since James McCormick made a bolt for freedom; I do not know what the Scottish Executive's position was, or should have been, prior to that. I am not trying to prejudge the issue, but there are legitimate questions that we need to ask the ministers and their civil servants, as well as questions for the Scottish Prison Service and Reliance. Even a shortened evidence-taking session would be incomplete without the Scottish Executive.

The Convener: We must come to a decision. Do members agree that we should have an evidence slot comprising the Scottish Prison Service and Reliance?

Members *indicated agreement*.

The Convener: We will organise that. We must now vote on whether the evidence slot should include the minister or deputy minister, accompanied by advisers. Does someone wish to propose that the minister be invited to participate in the evidence slot?

Nicola Sturgeon: I will propose that.

Jackie Baillie: Can I just clarify that Karen Whitefield's position is that there will be an opportunity to hear from the minister later if there are unanswered questions? We are not precluding hearing from the minister. The point is important.

The Convener: We must try to deal with actualities. One actuality is that I know who two of the parties are who are coming to the evidence-taking session. I need to ascertain whether there is to be a third party, which Nicola Sturgeon proposes would be the Scottish Executive. I am just trying to sort out who is being invited and when a slot would be available.

The question is, that the committee agrees that the Minister for Justice should be invited to appear before the committee. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Fox, Colin (Lothians) (SSP)
Goldie, Miss Annabel (West of Scotland) (Con)
Sturgeon, Nicola (Glasgow) (SNP)

ABSTENTIONS

Baillie, Jackie (Dumbarton) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The unanimous decision is that we will have an evidence slot at which the Scottish Prison Service and Reliance will appear. As I said, we are dependent on their availability. By majority decision of the committee, the Executive is not to be included in the invitation at this stage, although I understand—

Mike Pringle: There were three votes for and four abstentions.

The Convener: I beg your pardon. I am so sorry; I thought that the abstentions were opposing views.

The result of the division is: For 3, Against 0, Abstentions 4. Therefore, all the witnesses will come to the evidence-taking session. Thank you for that.

Constitutional Reform Bill

15:30

The Convener: We have received correspondence from the Lord Advocate and I need guidance from the committee on how it wishes to proceed. The letter from Colin Boyd to me was helpful as he was good enough to copy in the response from the Executive to the House of Lords Select Committee on the Constitutional Reform Bill. We need to decide what we want to do at this stage, if anything. We might want to consider whether we want to hear from the Lord Advocate and whether we want to respond to the Westminster committee. I am perfectly happy to hear suggestions about that.

Nicola Sturgeon: Did we ask Lord Falconer to give evidence and has that been put on hold because of what the select committee is doing?

The Convener: We extended that invitation.

Nicola Sturgeon: It strikes me that much as I would be happy to have Colin Boyd come to give evidence, we know pretty much what his view is. There are movements outlined in his letter that I welcome. It would be much more pertinent for us to hear from Lord Falconer, because he will make decisions on amendments and on how many of our concerns are taken on board. However, it might not be the appropriate time to hear from Lord Falconer, given the select committee's inquiry.

The Convener: I am informed that the invitation has been extended to Lord Falconer to attend the committee. I gather that the decision whether to appear rests with him. Certainly if the committee desires, I can arrange for a timeous reminder to be sent.

Jackie Baillie: That would be helpful.

The Convener: Does the committee wish to do anything else at this stage?

Karen Whitefield: We should hear from the Lord Advocate. I appreciate what Nicola Sturgeon has said about his views being on public record, but we would normally hear from a minister in a formal inquiry. That is a separate matter from whether Lord Falconer responds positively or negatively to our request. We hope that he responds positively.

The Convener: Is that suggestion agreed?

Mike Pringle: I agree with everything that has been said. Do we want to respond to the select committee?

The Convener: One thing at a time. Do we agree that we want to hear from the Lord Advocate, as well as from Lord Falconer?

Members *indicated agreement*.

Mike Pringle: It is really important that, after we have heard from them, we make our views known to the select committee.

Nicola Sturgeon: What is the deadline for that?

The Convener: We do not have a deadline at the moment. Again, it is a question of slotting things in as best we can in the spaces available. We will invite the Lord Advocate to come before us and we shall renew our invitation to Lord Falconer. We will see how we get on with hearing a little more evidence before we formulate a response to the Westminster committee.

I am happy to declare a comfort break of five minutes.

15:35

Meeting suspended until 15:42 and thereafter continued in private until 16:35.

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