

LOCAL GOVERNMENT COMMITTEE

Tuesday 4 April 2000
(*Afternoon*)

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LOCAL GOVERNMENT COMMITTEE 12th Meeting 2000, Session 1

CONVENER

*Trish Godman (West Renfrew shire) (Lab)

DEPUTY CONVENER

*Johann Lamont (Glasgow Pollok) (Lab)

COMMITTEE MEMBERS

*Colin Campbell (West of Scotland) (SNP)

*Mr Kenneth Gibson (Glasgow) (SNP)

*Donald Gorrie (Central Scotland) (LD)

*Mr Keith Harding (Mid Scotland and Fife) (Con)

Dr Sylvia Jackson (Stirling) (Lab)

*Mr Michael McMahon (Hamilton North and Bellshill) (Lab)

*Bristow Muldoon (Livingston) (Lab)

*Mr Gil Paterson (Central Scotland) (SNP)

*Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

*attended

WITNESSES

Oonagh Aitken (Convention of Scottish Local Authorities)

Professor Alan Alexander (University of Strathclyde)

Norman Murray (Convention of Scottish Local Authorities)

Albert Tait (Convention of Scottish Local Authorities)

CLERK TEAM LEADER

Eugene Windsor

ASSISTANT CLERK

Craig Harper

LOCATION

Committee Room 3

Scottish Parliament

Local Government Committee

Tuesday 4 April 2000

(Afternoon)

[THE CONVENER *opened the meeting at 14:04*]

The Convener (Trish Godman): Comrades, I call the meeting to order, because it is after 2 o'clock. SNP members are arriving late—and not very quietly.

Colin Campbell (West of Scotland) (SNP): When was Kenny Gibson ever on time?

The Convener: Members will remember that we agreed last week to take agenda item 4 in private today. Do members also agree to take item 5 in private?

A nod does not tell the official reporters anything: I need a voice.

Members indicated agreement.

Mr Kenneth Gibson (Glasgow) (SNP): The *Official Report* does not say that we agreed to take that item in private. I do not remember discussing that last week.

The Convener: We discussed it and decided to take item 4 in private. I am now asking for agreement that item 5 also be taken in private. We can discuss that lack of attention when we come to it, Kenny.

Mr Gibson: I am just looking through the *Official Report*; I do not see that decision.

The Convener: It is there, but you should not be looking through the *Official Report* at this time.

Colin Campbell: You should have read it before.

Mr Gibson: Consider my bottom spanked.

Draft Covenant

The Convener: The second item on the agenda is the draft covenant between the Scottish Parliament and local government. With us today are Norman Murray, the president of the Convention of Scottish Local Authorities, Oonagh Aitken, the chief executive of COSLA, and Albert Tait, a former deputy chief executive of COSLA, who is working on the covenant.

Before we start, we must be clear what we are discussing today. The covenant is between local government and the Parliament, so in the final analysis it is for the Parliament to decide whether it agrees with the covenant, although we can report on it. There is also the partnership between local government and the Executive; it is for the Executive to agree to that, but the same principle applies—we can comment on it. Indeed, that is what we will do today.

We will follow the same procedure as before; there will be a presentation, then I will open up the meeting for questions.

Norman Murray (Convention of Scottish Local Authorities): Thank you for inviting us this afternoon; we were delighted to be asked to make a presentation to the committee on the covenant. We were grateful that, when McIntosh reported in June last year, the first major debate in the Parliament was on McIntosh and how local government would operate vis-à-vis the Scottish Parliament. In that debate, Wendy Alexander made a constructive and helpful speech on how she viewed local government and its relationship with Parliament; she talked about parity of esteem, which—clearly—we support. We are trying to put that parity of esteem into words that we can all understand and feel comfortable with.

We have prepared a slide presentation; members have been provided with a copy. The first slide gives a summary of the issues. One of the main McIntosh recommendations, as you will be aware, was that a covenant should be drawn up between Scottish local government and the Scottish Parliament. We are in the process of putting that together. As you are probably aware, McIntosh also indicated that there should be a standing joint conference between the Scottish Parliament and local government. As the convener said, there should also be a partnership framework between the Executive and local government, but that is for another place. We are here this afternoon to talk about the covenant.

McIntosh highlighted two other areas that should be looked at: first, the protocol between elected members and officers—it is important that we get that right; and secondly, member training and personal development, and proposals for their

provision and resourcing.

An all-party member-officer task group was set up in January. We met only once because we wanted to make recommendations quickly. We thought that it was important that the Local Government Committee be fully involved in that process; as the convener was ill at the time, the deputy convener, Johann Lamont, attended our first and only meeting—it was probably the quickest working group that has ever been established. A work plan and a timetable were agreed at that meeting.

The draft covenant was issued to local authorities for consultation at the end of February. The closing date is 14 April, and we are waiting for some authorities to respond. I think that the committee was given a copy of the draft covenant. The partnership framework was sent out on the same time scale, so we are also waiting for responses on that. Small sub-groups are considering the draft of the protocol and the proposals for member training and personal development; we hope that that draft and the proposals will be issued for consultation in early April.

The draft covenant is founded on respect between Parliament, which is the policy-making and law-making body, and local government, which is the deliverer of the services. Clearly, the relationship between Parliament and local government needs to be established so that we feel comfortable about what we are trying to achieve. We envisage that the standing joint conference will monitor and review the covenant to ensure that it works properly, and to renew it as appropriate. There will be a learning curve in that process.

The partnership agreement with the Executive will follow similar lines, and will also be monitored by the joint conference.

The current slide shows the operation of the covenant, as we envisage it. The foundation of the agreement, respect, is shown in the middle. The standing joint conference will monitor the agreement, and will review and renew. We have accepted that recognition and relationships are important. We are keen to develop the code of operational practices.

The next slide shows where local government fits into the scenario: the covenant is between the Scottish Parliament and local government, the partnership is between local government and the Executive, and the standing joint conference oversees those relationships.

I hope that the committee agrees that we should respect each other's roles, responsibilities and legitimacy, which are distinctive but complementary. I do not think that either party

could act by itself, and I think that we all recognise the need to secure and maintain a strong and effective system of local government, which is based on the principle of subsidiarity and the principles that are contained in the European Charter of Local Self-Government. The Government is signed up to that charter and it is important that it be established.

We must develop a relationship that allows for full participation of local government in all the Parliament's work, provides for sharing information, experience and views, and ensures that the professional and practical experiences that local government offers are fully taken on board. That is crucial and will benefit everybody.

The code of operational practices sets out the need for clearly defined processes and procedures for engaging local government in all relevant aspects of the Parliament's work. The Parliament's processes are evolving, so it is unlikely that everything will run smoothly to begin with. Local government should be involved early on, so that it can influence how that happens. The establishment of a code will be regarded as a positive move by both parties. The code will require to evolve as relationships develop. The idea is to utilise the experience of those on the ground to propose changes to the code, as appropriate, and to deliver the principles that underlie the code.

14:15

Some questions have been asked on the standing joint conference. McIntosh indicated that there should be 15 members on each side of that conference—that is, 15 from the Parliament and the Local Government Committee and 15 from local government. I would be interested to hear whether the committee thinks that that is the right number; I think that it is probably too high. How and by whom should the Parliament's and local government's memberships be determined? I am not sure whether the committee has thought that through, but it is clearly an issue on which we would need some feedback from the committee. Are the suggested main functions correct, and should there be more—or are there too many? Are the proposed working practices acceptable? Are the proposed outputs from the conference acceptable? Should there be more? We need to establish where we are, regarding the joint conference.

The last slide—last but not least—concerns the Local Government Committee's working relationships. We argue that the model, once agreed, should be a model for other committees of the Parliament to operate in the way that they relate to local government. It is important that all committees follow that procedure. We wondered

whether any other points should be added. If there is anything that you want to let us know, we will take that on board.

The target date for finalising the covenant is the end of April. By then, our side would probably be ready to run with the covenant. How and when should it be presented to the Parliament? From our point of view, the covenant should be presented to the Parliament before the recess; that may be a tight time scale, but almost a year has passed since the McIntosh report came out, and we want to get this signed up between ourselves and the Parliament.

I have given a broad-brush run-through of where we are; we are more than happy to try to answer any questions, or to take on board any observations, views, thoughts or whatever.

The Convener: Thank you for that presentation, Norman.

When you considered the covenant, did you consider any other areas within Europe where a similar partnership had been set up, or is it a particularly Scottish idea?

Albert Tait (Convention of Scottish Local Authorities): We looked at the work of the McIntosh commission; the idea stems from some of the recommendations in its report. Although the commission's time was limited, it considered other arrangements. When we were drafting, we read a series of documents. Our feeling was that the document should be meaningful, and should not be written in bureaucratic text that would not be understandable. The ethos of our partnership and of working together should be that people do that because they want to, not because it is written down. Our document is short, but gets to the key point about a successful covenant or partnership—both sides wanting to work together.

The Convener: Are there any questions?

Mr Gibson: I will kick off.

Some of the questions that you have raised are quite fascinating. You are obviously throwing the questions over to us; let me put them back to you.

Norman Murray: That is what politicians do.

Mr Gibson: First, what do you believe are the main functions? Do you think that there should be more functions, and, if so, what should those functions be? Secondly, I agree that 15 seems an unwieldy number of members from each side. What do you think a practical number would be?

Norman Murray: We have not identified any other functions that we would want to incorporate at this stage.

In answer to your second question, I would have thought that about 10 members on each side

would be sufficient. That figure has come out of the air; I just think that 30 is an unwieldy number of members for a standing conference. Not so long ago, we were down in Wales, where there is a fairly big standing joint conference, and I am not sure that that size of conference is productive. I would argue for a smaller number of members from both sides, Kenny, but it is up to you to reach your own view on that.

The Convener: Would members from the 32 different councils be represented at different times on the conference? Would the membership change or would it be static?

Norman Murray: We would have to review the situation. We could not simply say that the 10 local government members would be in place for the next three years. That would not be fair. As you know, COSLA wants to become a more inclusive organisation. The last thing that we would want to do is to have the people appointed in place for the entire life of the standing conference. It would be useful to have people with fresh ideas and views coming in.

Mr Gibson: What kind of people would you be looking for? Would you want the 11 members of this committee to represent the Parliament or would you want to have a representative from each committee?

Norman Murray: I would rather have a broader input from the Parliament. Local government provides services from the cradle to the grave; the Local Government Committee has a major role to play but I suspect that all the committees of the Parliament are relevant to the work of local government. This year, six major pieces of legislation and perhaps two members' bills will come before Parliament. Local government will have a part to play in the delivery of every one of those, whether in education, housing or the environment. Membership of the committee should be made up of as wide as possible a range of individuals, parties and interests.

Mr Gibson: I am glad that you said that, as that is my view.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): It has been suggested that the conveners of the Parliament's committees could form a delegation. It has also been suggested that there should be a standing invitation to representatives of COSLA to come to this committee and for members of this committee to liaise with COSLA. Would that be more in line with your thinking?

Norman Murray: There would be 16 committee chairs.

Mr McMahon: Not all of them relevant to local government.

Norman Murray: To be fair, I cannot think of many committees whose remit does not impinge on local government. What you suggest is an option, however. Throughout COSLA, we have 22 spokespersons on a range of issues. We would want to identify which people we would want on the conference to ensure that all the parties in COSLA were represented. Likewise, we would want both urban and rural areas to be adequately represented.

Mr McMahon: Outwith that arrangement, however, there could be regular meetings between this committee and COSLA.

Norman Murray: We have had a good relationship with this committee from day 1. I give the committee massive credit for that. I hope that we have argued our case constructively before the committee when talking about what local government should be doing; as long as we have done so, we have found this committee, and others, to be willing to take our points on board. The committee has been helpful, particularly on issues such as the review of local government finance, which had hit a barrier—but I will not go into that just now.

Donald Gorrie (Central Scotland) (LD): I apologise for being so late. Jamie Stone and I were at a seminar on our marvellous new Parliament building, which overran a little.

Colin Campbell: The building or the meeting?

Mr Gibson: The meeting probably overran because Donald was asking the questions.

Donald Gorrie: I asked only one.

I would have thought that a good way of working would have been through sub-committees of the joint standing conference. If you wanted to explore a subject such as housing or social work, it might be an idea to get about six people from COSLA and a similar number of MSPs—some from this committee and some with an interest in the subject under discussion—to discuss the matter and report to the standing conference. Do you see the process working that way, or do you think that it will all work through the one group?

Norman Murray: Initially, it would be through the one group, although I understand your point, Donald. You are talking about an interesting related issue—we had not thought that point through.

Albert Tait: We considered that the standing joint conference would fulfil three main functions. I do not think that anyone would object to the first two: reviewing how the covenant is working and reviewing how the partnership agreement is working. The third function is where the conference's real work takes place—how we improve governance across the public sector. I do

not think that that can be done with just one body. However, we would not want to impinge on the work of individual committees and various committees will be set up to do pieces of work.

The number of people in the conference is important. Too large an organisation will become unwieldy. To carry out the third function properly, we have to engage other people, because improving governance is not restricted to local government and the Parliament. There are other players in the game, including the quangos and the private sector. In the conference, I imagine that we will want to be able to call in experts or other people who would help to pursue that process. As Donald Gorrie suggested, that may be through sub-committees.

This comes back to a point that we made at the beginning of our evidence. The process will not run smoothly right away; we are entering into a new arrangement and there will be a settling-down period during which we will get to grips with the exact focus of the standing joint conference. As I said, we do not want to impinge on work that is already going on in the various committees. That would be duplication and it would not be allowed.

Norman Murray: Donald Gorrie's point is very interesting. I want COSLA to operate in a small, working-party environment, away from the inherently big committee structure of the past, which was overly bureaucratic. I do not think that we were achieving a great deal then.

I would say to Donald that I want the 22 spokespersons to have the freedom and flexibility to set up small working groups, pick issues and report back to the main COSLA body in a short time scale with recommendations. We will then, I hope, be able to put those recommendations to this and other parliamentary committees. We will not just be reactive to what is happening in the Parliament, but will actively feed in, at the earliest possible moment, to what is going on in it. That is a challenge for local government in Scotland, but it is a challenge that I hope we can meet.

I take Albert Tait's point. We have to be able to walk before we can run. This is a learning curve for us all.

Colin Campbell: The function of the standing joint conference is to monitor the agreement between the various parties.

Norman Murray: Basically, yes.

Colin Campbell: What do you suggest the conference will be able to do if somebody is not playing the game, in terms either of the letter or the spirit of the agreement?

Norman Murray: What powers should it have? That is an interesting question.

Colin Campbell: Well, what should it do?

Norman Murray: What sanctions would it have?

Colin Campbell: Yes.

Albert Tait: The main sanction is in the conference's ability to report back to the full Parliament. All the work of the Parliament is open to public scrutiny and reaction. The agreement is entered into voluntarily. No one is forcing anyone's arm up their back. If the arrangement does not work, it is because the partners do not want it to work.

Norman Murray: A major element of trust is involved. We have to trust each other, sign up for the proposal and feel that we genuinely have ownership of a document that we want to work. I hope that we would not need to worry about one side not fulfilling its obligations. I would hope that the standing joint conference would not have too much work to do and that it would evolve as the process goes on. Provided that there is mutual respect and trust, I have no problems with the arrangement, which I think both sides will welcome.

Colin Campbell: I do not doubt that everybody now shares that mutual trust and respect. It is early days and we want to get this right and to trust and respect each other. That is not to say that the individuals might not change in time, in which case the situation might become slightly more fraught.

Norman Murray: That is why we need something in writing. I would not want the joint conference to have some sort of sanction—frankly, I do not see how one could be built in—apart from publicising something that was not working through the Parliament or through another method.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): Please accept my apologies for being late.

Donald Gorrie refers to a splendid new building; I should point out that my definition of splendid is rather different from his. That is for the record.

The Convener: I shall watch with interest tomorrow.

Mr Stone: Donald and I work closely together.

By way of bricking in the good works that are referred to in the Scottish Parliament information centre paper on the covenant—perhaps I should not talk about bricking in anything just now—what consideration might COSLA give to bringing MSPs into the process, perhaps in a wider framework? Have you considered inviting MSPs from appropriate committees to look on at the strategy forums and other committees that I used to be involved in when I was a councillor? You could put

down some good roots by working together and getting information back.

14:30

Oonagh Aitken (Convention of Scottish Local Authorities): We have tried to minimise the committee structure and strategy forums—we do not have those structures now. Over the next six months to a year, we aim to organise as many events as we can to involve MSPs in different aspects of COSLA's work. We cannot invite MSPs to committees or forums, because they do not exist any more.

We have invited Trish Godman—she was kind enough to come along—to the leaders' meeting. That is now the main decision-making forum. It might also be appropriate to invite MSPs at other times, when a particular issue is being discussed, for example. We are thinking about how we might involve MSPs in events that are based around some aspect of COSLA policy development.

Norman Murray: Ministers and MSPs have generally been supportive of what local government is trying to achieve. There has been a major open-door policy. We have been working hard to talk to all the committee conveners and committees of the Parliament to ensure that we are au fait with their remits. As members will know, the committees' remits are wide-ranging.

It is our job to ensure that MSPs and the Parliament are aware of the issues at local level. We must say, "Do you realise what effect this will have on our ability to deliver the services?" If we genuinely believe in social inclusion—as I do and as I know the Parliament does—we can deliver it only if we are singing from the same hymn sheet. We are the people who deliver the services and we will be judged by the people out there on the services that we deliver. If we do not deliver good services, they will probably throw us out as local councillors, and rightly so. I hope that we can deliver high-quality local government services in Scotland and I hope that that would mirror what the Parliament is trying to achieve.

It is early days, as the Parliament has been on the go only for a year. In that time, we have been trying to network—a terrible expression—as best we can. My role is to ensure that Scottish local government has as high a profile as possible. I have been trying to do that since June last year and will continue to do so. It is important that Parliament understands what local government is trying to do and that we understand your thinking. You are the people who put forward legislation and scrutinise bills. We must ensure that we give you as much information as we can. We will not always agree on issues—we do not expect that—but we want you to listen to what we are saying and then make up your own minds.

Mr Gibson: I hope that Norman is not a member of “the network”.

Norman Murray: What is the network, Kenny?

Mr Gibson: I think that we both know what it is.

One of the sub-committees that you propose is for member training and personal development. Do you hope to ensure that everyone who is a member of the standing joint conference is fully au fait with how local government works? One of my concerns is that only a small minority—not only in the Scottish Parliament but within local councils—understands local government finance. We all appreciate that the subject is labyrinthine, but everyone ought to understand it. The Executive has given documents to members of this committee, who are aware of how local government finance is structured. There are many other elements, but finance is a key foundation. Do you hope to expand training and personal development from members of the joint conference to other councillors and to members of Parliament?

Norman Murray: We would like to do that. The Kerley committee is considering training. Councillors on the ground do not get the type of training that they should get. They are thrown into the job and there is a steep learning curve. COSLA has training in its portfolio—we deliver training in local authorities throughout Scotland. However, more could be done by local authorities themselves.

Oonagh Aitken: This is not the right place to discuss COSLA’s strategic plan, but the document that we have just agreed covers a major area of organisational development. That includes development for those members who are now spokespersons for the organisation. It also expands on the Local Government National Training Organisation’s scheme of member development. Our document adds into that scheme a Scottish brand, as it were.

Elected members from COSLA who are on the standing conference must be au fait with everything, but I agree that we need to expand training. When we have seen the results of the Kerley committee and the MacNish panel, we might want to consider that seriously for all elected members, present and future.

Mr Gibson: Would you want to draw MSPs into that, too?

Norman Murray: Yes.

Bristow Muldoon (Livingston) (Lab): A structure of two bipartite partnerships, one with the Parliament and one with the Executive, has been suggested. How do you see those overlapping so that the strands all work together?

Norman Murray: That is a leading question. It might be easier to sign an agreement between COSLA and the Parliament than between COSLA and the Executive, but that is not for me to say. Well, it is for me to say; I just said it. *[Laughter.]* The three strands must operate together as best they can. We are not trying to tie the hands of the Scottish Parliament, and we are not saying that Scottish local government is the equal of the Scottish Parliament. However, we feel that we have an equal role in trying to fulfil the terms of the partnership.

I hope that the partnership agreements with the Parliament and the Executive will both be signed at roughly the same time. That would be a good way forward. After a year, we would have to review how those partnerships are operating. The situation is evolving but, if we do not get something meaningful down in writing, warm words from both sides will not mean an awful lot. Local government will find it difficult to operate until we have something in writing that makes sense. The Parliament and the Executive will have to talk to us about the issues.

The challenge for local government is immense, and it is one that we have grasped. The McIntosh report was a useful document. Local government had been changing and evolving over the years—it did not take Neil McIntosh to tell us that. The McIntosh inquiry gave us a great opportunity, and I am delighted that the Parliament and the Executive have considered McIntosh as a package, although there are some aspects of the report that they did not accept. It can work only as a package, and the covenant is part of that exercise.

Albert Tait: The gel for bringing the partnership together is the standing joint conference. Its first two remits are to consider how the covenant is operating and how the partnership agreement is operating. One of the charts that Norman Murray put up demonstrates that the standing joint conference is between the Parliament and local government; it would not necessarily include members of the Executive, unless the Parliament decided that it ought to. We did not raise this in our questions, but McIntosh recommended that the standing joint conference should oversee how the arrangements were working. We could have gone for a tripartite approach, but the reality is that there are two organisations with their own democratic responsibilities, duties and legitimacy. We framed our document on that basis, although I hope that, if problems arise, the standing joint conference will become the overseer.

Bristow Muldoon: My other question is unrelated. Is there a degree of unanimity in local government about the proposed way forward on the covenant?

Norman Murray: Yes.

Oonagh Aitken: It looks like there is.

Norman Murray: The date is close to 14 April and no one has come back to say, "By the way, we will not sign up to this document". I hope that we will have only one or two amendments, as we have not had too many so far. Most local authorities seem to be quite comfortable with the document and, come 14 April, I hope that few changes will be made to it.

The Convener: The McIntosh commission recommended that local government be given a power of general competence. If councils are given that power, will it have an impact on the covenant?

Norman Murray: I do not know whether that would have an impact on the covenant, but it would help to foster relationships between local government and the Parliament. I would also argue that we should be given the duty of community planning, but you would expect me to say that.

We have been beavering away at those two areas. On Thursday morning, there will be a conference in Edinburgh on community planning, which Frank McAveety, the Deputy Minister for Local Government, and I will address. I am half-hopeful that something may come out of that conference on the powers of general competence and community planning.

The power of general competence would be useful to local government. I am not sure whether it would change overnight a lot of the things that happen in local government, but it would send the right message that local government is valued.

The Convener: I am making faces at Kenny Gibson.

Mr Gibson: As I am getting the evil eye, this will be my final question, convener.

How important is it that we maintain the principle of subsidiarity?

Norman Murray: It is absolutely crucial. If we genuinely believe that subsidiarity is about getting down to an accountable and democratic local level, maintaining that principle is fundamental. I am not suggesting for a minute that power will be taken away from local government, but subsidiarity, as it is enshrined, must mean something on the ground, rather than just being about warm words. We can all say warm words, Kenny.

I hope that I do not upset anyone but, at the end of the day, I would argue that we are closer to what happens in local areas than MSPs, MPs or MEPs are. We hold weekly surgeries and are aware of what is happening in the communities in

which we live. Therefore, it is important that we are listened to; people who live in the areas that we represent would also argue that case. We would resist totally any move away from subsidiarity.

Mr Gibson: I agree with everything you said.

Donald Gorrie: One matter that may be more for us than for local government to tackle is that local government impinges on so many issues—or rather they impinge on local government. For example, let us consider the bills that are going through Parliament at present. The bill on improving education puts various duties on councils, and therefore councils should be involved in discussing that bill. Other bills will improve social work services—helping people with disabilities and so on—and they will impinge on local government. Housing bills will obviously impinge heavily on local government. Your relationship must not be only with this committee but with the Parliament as a whole. It may be quite difficult for you to impinge on everyone that you should impinge on.

Norman Murray: That is our role. We changed the structure of COSLA to ensure that we were able to approach what we are trying to achieve proactively. Last June, COSLA probably would not have been in a position to do that, but we are getting there, although, to be fair, we are not there yet. We set up a parliamentary briefing unit within COSLA, which will be our eyes and ears as to what is happening within the Parliament, so that we become aware as quickly as possible of issues that arise in the committees. Then we will be able to go in and say, "Here is local government's position".

14:45

Whether in connection with housing, the environment or whatever, we need to make sure that we influence decisions before they are made. At the end of the day—at the end of the sausage machine—we deliver most of the services, so it is important that our view is given. I am not saying that Parliament should always listen to our view, but it is a valid view. I hope that we can be a constructive conduit to what we are all trying to achieve.

Mr Gibson: I know that I said I was only going to ask one final question but, as usual, I lied.

I have been impressed by a number of the documents that COSLA has issued to MSPs. I seem to have had more documents from COSLA in the past year than in the seven years I spent as a councillor. Perhaps that is Norman's influence—a touch of sycophancy there. To see how far the decisions made impinge on local government, will you set up committees to shadow the Parliament's committees?

Norman Murray: No. We need to get away from a narrow, committee-type structure and to approach what we are doing more corporately. I am not a great fan of committee structures sliced up into education, housing, social work and so on. That is a mindset and culture that we have to try to knock on the head. We have no intention of mirroring the Parliament's committees, not least because I suspect that in a few years the Parliament may not have the same committee structure. After a year or so you will want to ask whether it is the best structure.

Oonagh Aitken: As well as the parliamentary unit mentioned, COSLA has officers who monitor the committees and, in order to work more corporately, we have asked people to monitor areas other than those they are working in. In designing our political structures we have tried to reflect cross-cutting and thematic issues rather than having traditional structures based on council departments. We are trying to reflect in our internal and political structures what we see as the future for local government.

The Convener: If there are no more questions, I thank the representatives of COSLA for their presentation. I note that you would like the matter concluded by the summer recess. The time scale seems reasonable but is not for me to decide on. Thank you for coming. You are our most regular visitors.

Mr Gibson: Season ticket holders.

Norman Murray: Thank you. We are more than happy to come to the committee at any time, any place, to discuss any issue in local government.

The Convener: Comrades, I will now introduce—

Colin Campbell: Do you say comrades to annoy me?

The Convener: No, you are my comrades. That is why I say it.

I would like to introduce Professor Alan Alexander from the University of Strathclyde Scottish local authorities management centre. He holds the chair of local and public management at Strathclyde Business School and was a member of the McIntosh commission. He has acted as a management consultant and adviser to a number of authorities, so he comes with plenty of experience of local authorities. Welcome, Alan. We will go through the same procedure: you can give your presentation, then we will ask questions.

Professor Alan Alexander (University of Strathclyde): I have not brought my all-singing, all-dancing PowerPoint presentation. For me, that is quite unusual, but I did one this morning and I thought that I might get confused if I tried to do two, so I am relying on the power of the spoken

and written word. I have made available a copy of my opening statement, and I hope that it will be helpful.

I will start, as did the COSLA delegation, with the issue of parity of esteem. There are in Scotland two major democratic institutions: this Parliament and local government, which is composed of 32 elected local authorities. McIntosh found that, generally speaking, local government and the services that it delivers were held in high regard. The McIntosh commission conducted its inquiries before Parliament was elected, and it found that the concern that led to the commission's appointment—the need to establish a productive relationship between those two democratic institutions—was widely shared. Its conclusion, which was based on the widest consultation with local government stakeholders that has ever been undertaken, was that such a relationship would have to be based on what we call parity of esteem, because parity of esteem was implied by their shared democratic foundation.

However, it is important to say that it would be naive, as well as a misreading of the constitutional realities, to argue that parity implies equality. The relationship between Parliament and local government can never be a partnership of equals. The responsibility of Parliament for local government precludes that, because at any time Parliament may legislate to change the powers, duties and obligations of local authorities. In the absence of a constitutional guarantee of the position of local government—beyond the pieties of the European Charter for Local Self-Government, to which the UK Government belatedly subscribed in 1997—the relationship cannot credibly be based on an assertion that the parties to it are equal.

I suggest, however, that the concept of an equal partnership, as distinct from a partnership of equals, provides a useful starting point for the establishment of a productive relationship and the construction of an agreed basis—a covenant, as McIntosh called it—for that relationship.

Scotland's new constitutional settlement gives us the opportunity to move away from the view of local government that is held by central Government, which has been the major obstacle to the establishment and maintenance of such an equal partnership. I would characterise that view as instrumental, in that since it was first clearly expressed in the Labour party's manifesto for the 1945 general election, Governments have seen local authorities mainly—and, more recently, almost exclusively—as instruments for the implementation of national policies, rather than as democratic institutions with the legitimacy to govern local communities. That is not to argue that

because they are democratically elected, local authorities should be free to ignore the policy objectives of central Government, nor that they should be able to pick and choose among them. It is simply to suggest that central Government needs to recognise that local government has a purpose beyond mere implementation. By approving an agreed covenant with local government, Parliament can give a lead to the Scottish Executive in this essential change of direction.

The covenant needs to be based upon a recognition of the wider role of local government. If Parliament wishes to support that role, a model already exists. The community governance model accepts the responsibilities of local government in the implementation of national policy and national standards, but also recognises the capacity of democratic local government, with its organic link to its community, to promote, in the words used in the current English legislation, the economic and social well-being of its area. In Scotland, local authorities are already moving along the road of community planning, an approach to local policies which, if it is to have any meaning, must go beyond the merely instrumental view of local government. That approach moves us close to the power of general competence, for which local government has long argued.

It hardly needs to be said that any covenant, as well as accepting the principle of equal partnership, needs to be based upon mutual respect, trust, candour and honesty. That means that the Parliament needs to inform local government as early as possible of any proposed changes to the legislation or regulations that govern its performance. It also means that local government needs to accept that it does not exercise its powers in a local vacuum, unaffected by national imperatives such as the state of the economy, the size of the Scottish block and the desirability of avoiding unacceptable differences in the standard of public services across Scotland.

A covenant between Parliament and local government must cover the whole range of interactions between them. However, there are some issues that should be addressed specifically, not least because they affect all other issues. First, the covenant should be specific about the need for joint consideration by Parliament and local government of any changes to local government finance, both in relation to taxation powers and to the distribution of grant. Secondly, the covenant should be clear that the imposition on local government of what have become known as additional burdens—which is unfortunate, as it is like using the phrase tax burden instead of tax requirement—particularly as a consequence of new legislation, should occur only after local government has had the opportunity to participate

meaningfully in the pre-legislative stages of policy formation. Thirdly, the covenant must commit both sides to frequent and open consultation on the range of local services and local responsibilities.

Any consideration of a covenant needs to be clear about what each side will bring to the table. What are the assets of local government in attempting to establish a productive relationship with Parliament? I identify three particular strengths: local knowledge, including a clear appreciation of the local applicability and implementability of national policies; a democratic mandate for the design and delivery of services; and a vast reserve of professional and managerial expertise and experience.

Similarly, the covenant needs to recognise what Parliament will bring to the new relationship and its operation. I identify four particularly important assets: Parliament's legislative authority and competence, which is paramount; its national representativeness and its status as a forum for national policy debate; its democratic mandate for the determination of national policy; and its capacity to take a national overview, especially in regard to the scrutiny of the performance of other agencies, including local government, and to compare outcomes and outputs across Scotland, which means, of course, across local authority boundaries.

I have tried to set out the basic desiderata. I am happy to answer questions or expand on any points.

Donald Gorrie: There are three players: local government, Parliament and the Executive. In the real world, the Executive is 90 on the Richter scale, the Parliament is 10 and local government is perhaps five. What are we going to do about that?

Colin Campbell: Get on the Executive.

Professor Alexander: I am glad that that question arose early on, as there has been a "Hamlet without the prince" tone to the discussion. The committee could sign up to what COSLA has proposed, but if that is not mirrored by a similar, if not identical, agreement between the Executive and local government, we might as well save our breath to cool our porridge.

Local government is affected much more—I agree absolutely with Donald Gorrie—by the decisions that the Executive takes and then has approved by Parliament than it is by anything that is debated by Parliament off its own bat. I do not want to diminish the importance of Parliament as a national forum, but the Executive drives things such as local government finance, and what I referred to, apologetically, as additional burdens. The McIntosh commission recognised that, and said that there would have to be two sets of

agreements, which would become, in effect, tripartite in operation. If that does not happen, the proposals will not be effective.

Mr Gibson: Thank you for your excellent presentation. We particularly appreciated its directness—sometimes we go round the houses on issues.

In the middle of the section “Trust, Respect, Candour, Honesty” in your presentation, you state:

“Parliament needs to inform local government as early as possible of any proposed changes to the legislation or regulations that govern its performance.”

In the following section, “Finance, ‘Additional Burdens’, Consultation”, you talk about the covenant being

“specific about the need for joint consideration by Parliament and local government of any changes to local government finance”.

Should there be a mechanism whereby local government would have a direct input into the Executive, given the fact that everyone else could be superfluous if the Executive did not want to participate as most folk around this table believe that it should? If so, what kind of mechanism should be established for that kind of exchange of views?

15:00

Professor Alexander: Far be it from me ever to suggest that parliamentarians are superfluous. We would be in deep trouble if that was true. There is a degree of code in this presentation. I did not steal the Enigma machine, but let me crack the code for you.

We should read this in the context of the responsibility of the Executive. Let me be up front about that. The Executive needs to accept that it must inform local government, particularly when new responsibility will be laid on local government, or when local government is essential to the implementation of national policy. The earlier the Executive informs local government of that, the better will be the legislation that comes to Parliament. I firmly believe that.

There is a clear link between implementation and policy. If the Executive says to local government, “This is what we are thinking. Will it work?”—to put it in basic terms—what comes out of parliamentary consideration of legislation will be better, easier to implement and more successful. There has to be a degree of opening up by the Executive to early joint consideration of policy initiatives.

Mr Gibson: Do you believe that joint consideration should be tripartite rather than bipartite, involving the Parliament, the Executive and local government?

Professor Alexander: Kenny, if I were writing the script, that is the script that I would write. The Executive should be involved in the process. We are talking about the early stages of national policy formation, which are sometimes the most crucial stages. If policy decisions are wrong at that point, they are wrong all the way through—and we can find examples of that at Westminster. The process will work only if the interests of the Executive, Parliament and local government are considered jointly at an early stage.

The decision as to what Government or Executive legislation is put to Parliament will ultimately be for the Executive to make, and ultimately it will be for Parliament to vote on the legislation. I am talking about the previous stage, at which we try mutually to influence the substantive content of legislation. As I said in my presentation, one of the strengths of local government is that it contains a huge amount of professional and managerial expertise. I do not believe that we, in this country, have used that expertise well enough in the construction of public policy and the informing of legislation. A tripartite arrangement to covenants or partnerships might enable us to use that expertise better. We should be able to do better than we have done in the past.

Bristow Muldoon: What are your views on the degree to which the Executive is trying to move in that direction, particularly in relation to some of the major bills that are being processed in the Parliament’s first year—the Ethical Standards in Public Life etc (Scotland) Bill, the Standards in Scotland’s Schools etc Bill and the proposed transport bill—which are all at different stages? What are your comments on the way in which the Executive has consulted this year?

One area in which there has been a big weakness is finance. I hope that it will be improved on next year, following recent statements, particularly from the Minister for Finance. What are your comments on that?

Professor Alexander: If I was summing up, I would say “Better; must try harder.” The relationship is better under the Executive than it was under the previous arrangements. There is a more open and consultative atmosphere, but ministers must go further. They must be prepared to hold off making decisions on policy until they have heard evidence from many folk.

I find it difficult not to comment on the rapidity with which Government kicked the idea of an independent review of local government finance into touch. That was not a good starting point for getting to the destination that we are trying to get to now. You cannot have a sensible, mature and productive relationship between the different levels of government, if I may put it that way, unless they

are mutually confident in the financial relationship. That mutual confidence has gone. The Executive's attitude towards that part of the McIntosh recommendations was deeply unfortunate. That is why I think that it has to try harder. The more no-go areas that there are in consultation, the less genuine any continuing discussions will be.

Johann Lamont (Glasgow Pollok) (Lab): I am very interested in what you have said. In a sense, the test of the Parliament will be the extent to which the Executive is made to take account of the way in which people have responded to its attempts to kick things into touch. Local government finance is one area in which this committee has taken a contrary view to that of the Executive. We believe that we are reflecting the views of local government. We will see whether the Executive takes that into account. We are exploring and testing the structure of our parliamentary committees.

You spoke about expertise. Is the way in which this committee taps into local government expertise different from the ways in which the other parliamentary committees tap into the other areas of expertise that they ought to tap into? I feel that it will be the committee structure that allows you to breach the walls of the Executive. What more do you feel that this committee can do to establish that breach?

Professor Alexander: The great strength of the parliamentary committees is exactly what you imply: they bring into the public domain a different range of advice from the advice—excellent though it is—that is given by civil servants. That is very important, and especially so in the area of local government, because national Government—which is what the Scottish Executive is—does not actually deliver any services at all. It may deliver certain benefits but, on services such as education, social work, housing, planning, environmental health and so on, the expertise is in local government. That expertise has to be fed in during the early stages of policy formation that will lead to legislation. Doing that is an important role for this committee to play.

Your point about breaching the walls is very important. I greatly welcome this committee's excellent view that it can examine local government finance even if the Executive decides that doing so would be too difficult, too inconvenient, or whatever this week's excuse is for not doing it. However, I must go back to Donald Gorrie's point: at the end of the day, you have to draw the Executive into the process. If you can do that by pushing hard from this committee, all power to your elbow. One of the great tests that will show that this Parliament can do things differently from the way in which they have been done before will be when major substantive

legislation is put before Parliament by one of its committees. Who knows? That may happen with local government legislation.

Johann Lamont: A strength of this committee will be its ability to scrutinise the relationship between the Executive and local government. I do not mean that we should be judgmental, but if the relationship is not working because the Executive is taking a steamroller approach, we should be able to say that on behalf of local government. Do you think that this committee taking such a role would simply muddy the waters and therefore not focus attention on the ways in which the Executive is not responding as it should?

You spoke about the need for genuine consultation. How do you respond to the view that has become clear from this committee's meetings with local government representatives and from the Equal Opportunities Committee's meetings with women's organisations—the view that there is a consultation overload without there necessarily being an equivalent benefit? There may be ways of drawing in expertise other than simply sending people a document and considering the response.

The last point is touched on in your paper. There is a clear tension between local government priorities and those of the Scottish Executive and the Scottish Parliament. You say that national Government has the right to set priorities, but that local government has the right to say that it does more than simply implement those priorities. How can that tension be managed?

We were given the example of the tension between the priorities of a certain local authority and the priority given by central Government to childcare support in relation to allowing women to return to work. The local authority would not have pursued that priority without pressure from central Government. That is where the debate around ring fencing is coming from.

Professor Alexander: One of the difficulties about the relationship being overseen by the Local Government Committee is the risk of a conflict of interest. There is a conflict between being a party to the relationship and being responsible for overseeing it. If there were a bipartite relationship between the Executive and local government, it would be wholly appropriate for that to be overseen by the Local Government Committee on behalf of the Parliament. However, that is not what we are talking about.

Having consultation is better than not having consultation. Those involved in determining policy need to recognise that a commitment to consultation does two things. First, it makes the early stages of the policy process a little longer, and secondly, if the consultation is real, it makes the process somewhat unpredictable. Consultation

is only real if one is prepared to change the view one set out with. One of the things that McIntosh discovered is that people are as smart as paint; they can spot a phoney consultation a mile off. They know if they or we are simply going through the motions. One has to be careful. One gets more people on board—even the Opposition, grudgingly—if there has been consultation.

Mr Gibson: Grudgingly?

Johann Lamont: At best.

Professor Alexander: The question of priorities goes right to the heart of the need for a new relationship. One of the ways in which central Government has frequently enforced its priorities is through the ring fencing and earmarking of grant. Currently, it would take a very brave local authority to turn round to the Executive and say, "Stuff that grant. It is not on our list of priorities." That would be asking an awful lot of a tightly constrained local authority.

We cannot get away from the fact that a national representative Parliament and an Executive will set out their priorities. The tension begins when they decide to enforce those priorities administratively and financially, beyond legislation. If we can reach a situation where the creation of a special grant that can be spent only on X, Y or Z will be put before Parliament only after a meaningful consultation process, we might be able to reduce that tension. At the moment, such decisions are simply announced by the Executive.

The additional grant for areas of multiple deprivation, based on the receipt of income support, was a classic example of the sudden arrival of a grant to deal with a perceived problem. The words rabbits and hats come to mind. The problem might exist, but it would be better to have real consultation about the incidence and implementation of such an initiative. We will never eliminate the tension between national and local priorities, but some of the ways in which the relationship has been mediated recently have exaggerated rather than ameliorated that tension.

Johann Lamont: Do you accept that there are circumstances where an issue would be so far down the normal list of priorities of local government—I am talking about the women's agenda in relation to domestic abuse—that local authorities could only be persuaded to take it on in the very long term? Are there cases where it is legitimate, because a crisis has been identified, for central Government to direct the priorities of local government?

15:15

Professor Alexander: After consultation, yes. In my introduction, I made the point that this is not

a partnership of equals. If a national Government wishes to press its priorities, it will do so if it has a majority in Parliament. However, I object to the tendency for that situation to be the norm rather than the exception. It would be very foolish to exclude the possibility that national Government could look across Scotland and decide that certain organisations are not working in the interests of the nation. If we concede that, there must be a long-stop power to do what you have described.

Mr Gil Paterson (Central Scotland) (SNP): In your paper, the paragraph entitled "Historical Perspectives on the View of National Governments" says that

"central government needs to recognise that local government has a purpose beyond mere implementation".

I interpret that as a call to let the leash off local government. You mentioned that the Executive is not calling for an independent review of local government finance. However, councils are seeking to increase and improve delivery of service. Apart from that, is it enough for an Executive merely to consult before it introduces policies?

Professor Alexander: I would want a guarantee for the powers of local government to be preserved.

It would be quite impossible to let the leash off local government entirely. The leash has become so tight on local government that it has unfortunately become a choke-chain. We should remind ourselves of our position. Only 12 years ago, 40 per cent of revenue came from the Exchequer and 60 per cent from locally raised taxes and charges. The fiscal balance is now 80 per cent from central Government and 20 per cent from taxes, which is not healthy for local democracy or the relationship between levels of government. Above all, I do not believe that that is necessary. There is a big gap between taking the leash off local government and our current position.

That is why I have dragged in the question of an independent review of local government finance by the hair of its head, because although this relationship might be more open and better-mannered than before, it will continue to be fraught and less constructive than it should be unless the levels of government can agree on the crucial issue of local government finance. It does not matter whether the subject is the distribution of grant or the absence of the power of taxation on business and commerce; the distance between local and national Government on the issue of local government finance is so enormous that it will probably affect the other parts of the relationship. We need an agreed financial basis between the Executive and local government to

improve that relationship.

Mr Paterson: So are you saying that the financial constraints govern everything else and that there will be no give and take until we have the independent review?

Professor Alexander: I do not disagree with that. There are still consultative gains to be made; however, although they are worth while, they will be strictly circumscribed until we can reach an agreed analysis of the fiscal position. That is absolutely crucial.

Mr Gibson: Is the issue not only that the Executive is imposing its priorities on local government, which will annoy local authorities, but that funding for ring-fenced priorities is taken from other services? If local government were given the money by the Executive to impose the Executive's priorities, there would be less concern. However, the Executive says that the money has to come out of funding for existing services.

Professor Alexander: That is right—historically, it has always been unusual for a new, earmarked grant to be additional money. It tends to come out of the same kind of quantum. That is exaggerated in the Scottish case by the realities of the devolution settlement, where the block is also finite. There are great difficulties in that. Remember that the inflexibility that is built into the relationship between central Government and local government and into local authority finance and budgeting comes very much from that 80:20 balance I mentioned and from the absence of real fiscal power at local level.

Mr Stone: Donald Gorrie mentioned the Executive and Johann Lamont talked about breaching the walls and so on. The way in which we organise our committees—education belongs to the Education, Culture and Sport Committee and so on—means that the Local Government Committee has a rather reduced remit; a lot of our work goes elsewhere. I do not have a solution to that, but do you see it as a problem, in terms of trying to bring the Executive to account?

Professor Alexander: I was struck by the earlier discussion in response to the presentation by the Convention of Scottish Local Authorities. If the parliamentary side of the relationship between local government and the Parliament is based entirely in this committee, you will miss out on a lot of interesting expertise. As the terminology suggests, the relationship has to be seen as being between local government and the Parliament.

To relate that to Johann's point, if this committee was represented on whatever institutions are set up, the fact that the committee was the first port of call would become less problematic. Parliamentary representation would be more broadly based, rather than simply being through this committee.

Frankly, given the number of members on this committee, there would be a difficulty in filling the 15 places—if indeed it were 15—and I am not sure that it would be an entirely desirable thing to do.

It is probably right to bring people in from committees that are concerned with education, social work, equal opportunities and so on. That would be a much sounder basis of going about things, because there is almost nothing that this Parliament can legislate on in which local government does not have an interest. Take an area such as health: there is a clear interest there, in the interfaces between health and local government, particularly in relation to health and social work.

Bristow Muldoon: I agree with you, Alan, about the value of consultation on all legislation. However, one of the problems is that when the Executive consults, there is an immediate knee-jerk reaction from the Opposition parties, and sometimes from other groups within the community, which feel that the Executive has already made its decision and that the consultation is false. If the Executive takes on board anything that arises during consultation, that is presented as a U-turn. How do we get round that, in order to build genuine consultation and genuine participation?

Professor Alexander: How do I answer that question without appearing to be critical of my hosts? Let us be frank: if we try to edit such political point scoring out of the agenda, we will be kidding ourselves. It will go on happening.

I take a naive, simplistic view: if the Government says that it is consulting, I will give it the benefit of the doubt, until it demonstrates that there are no-go areas in the consultation. In areas such as ethical standards and appointments to public bodies and so on, it is difficult to see, from these documents, what the no-go areas would be. There should be an open consultation. When the Government announces what it will do on the basis of the consultation, it has a duty to say why it appears to have taken more heed of one set of views than of another.

Earlier you asked me how I thought the Government was doing. I think that things are better than they were when we relied on the viceregal Scottish Office and Westminster. It is consulting better. However, if you are saying that it is illegitimate for politicians who are not subject to the constraints of a partnership Executive to say that they do not believe that consultation is genuine, I think that you are hunting the snark. You have to take the hit on the chin and say that things are better than they used to be. That is how I would put it.

Mr McMahon: Part of your presentation was

about community governance. Some of what has been said at this meeting has indicated how I would like to address that question. Many constraints have been placed on local government by the centre—the centre has used it as an instrument. Is there not a danger that something similar could happen with community governance—that we could end up not with communities governing themselves, but with local authorities governing communities? How do we overcome problems at that level and ensure subsidiarity?

Professor Alexander: You are right—it is very easy for a local authority to give the impression that it has all the answers and to say, “This is our policy and we are going to implement it without consulting you.” That does not accord with the model of community governance. There is a need to empower other civic institutions in the discussion of local policy, in the same way as we are seeking to empower local government in the discussion of national policy. Ultimately, the council has to take responsibility for the decision. My plea is that it should not make the decision so early as to exclude the valuable views and expertise of others. If we can apply that principle to the relationships between the Executive and Parliament and between the Executive and local government, we can also apply it to the relationship between big local authorities and the multiplicity of communities of which they are composed.

Mr McMahon: Would it be possible to link the Scottish Executive and Scottish Parliament directly to community governance, or are they too distant from it?

Professor Alexander: That would be very difficult to do. There is no difficulty with communities feeding into national consultations. However, if there were a formal relationship between national Government and community groups or community councils that bypassed local authorities, it would be likely to produce more problems than solutions.

Mr Keith Harding (Mid Scotland and Fife) (Con): I thank Alan Alexander for his presentation, which was, as usual, excellent. As you are aware, we have visited the majority of councils and, without exception, they said that they wanted a power of general competence. However, none of them was able to make concrete suggestions about what they would do with it; all they said was that it would send out the right message about trust between the Parliament and councils. Do you have any ideas about what councils would do with such a power?

Professor Alexander: I have had the same experience. Having a power of general competence is enormously symbolic. Rather than

give you specific examples of how it could be used, I will make a general point. It can be argued that a situation in which local government can do anything that it is not prohibited from doing, rather than only those things that the higher level of government permits it to do, is likely to encourage greater experimentation and innovation at local level. It is a cheap shot for ministers to say, as they often do, “Tell us what you can’t do.” That is easy and it is not what we are talking about here.

Unless we get the financial relationship right, a power of general competence is about as useful as a brush without a handle. The real constraint is not power, but finance. However—and Keith Harding and I have spoken about this previously—the power of general competence has a symbolic value that would be important in setting the tone for the kind of relationships that we are talking about.

The Convener: Thank you very much, Alan.

You talked about the recognition that other committees will need to feed into the debate. The committee has talked about the fact that we do not deal with the nuts and bolts of things, which for some of us is disappointing—it certainly is for me—but we recognise that that is the way in which the committee has been set up.

In terms of considering the Parliament’s budget for the next year, which we will start to do today, we have decided to have reporters on each of the relevant committees to give us feedback and a feel for what is happening in other areas, how other committees are considering the budget and how the services will be delivered given any constraints that there may be.

The other thing that I have always kept my eye on, as I am sure other committee members have, is the fact that we can initiate legislation—that is the difference. I take your point that, in the final analysis, that may be how we effect change in the Executive. The possibility of doing that exists.

Thank you for coming along. I found what you said very interesting. You obviously support local government, which is the feeling of the 11 members in this room, eight of whom were local councillors.

Professor Alexander: Yes. It is the usual suspects.

The Convener: That is right, but I am sure that I speak for the whole committee when I say that we are committed to local delivery of services and to the form of subsidiarity that Kenny Gibson talked about. You have been very welcome and I thank you. As I said, when we are in need, we will call you back.

Professor Alexander: Thank you very much.

Subordinate Legislation

15:30

The Convener: Item 3 on the agenda is subordinate legislation. This should be pretty straightforward, as no members have indicated that they have any difficulty with the instruments. The choice is to agree the content of each instrument or to recommend that the instrument be annulled. We cannot make any changes or amend the instruments.

Colin Campbell: Kenny Gibson says that we should go for annulment.

Mr Gibson: I say that we agree them.

The Convener: I have to go through each one individually. Do not be impatient.

The Local Government (Discretionary Payment and Injury Benefits) (Scotland) Amendment Regulations 2000 (SSI 2000/77) has been included in the papers, but is not on the agenda, so we will leave it until the meeting on 25 April. The lead committee will not report until 8 May.

As I go through the instruments, I will ask members to agree to the recommendation. Please do not nod your head, because the *Official Report* cannot record nodding.

Colin Campbell: It can record laughter.

The Convener: Yes, and it can also record Kenny Gibson making funny faces at me. Please remember that Sir David Steel reads all the reports. That is you down not to be called next week, Kenny.

The first instrument is the Non-Domestic Rate (Scotland) Order 2000 (SSI 2000/39). Are we all agreed on that instrument?

Members: Yes.

The Convener: The next instrument is the Commissioner for Local Administration in Scotland (Expenses) Regulations 2000 (SSI 2000/48). Are we all agreed on that instrument?

Members indicated agreement.

Mr Gibson: Yo.

The Convener: Did you say no, Kenny? You must not do that. If you say no it changes the whole thing.

Colin Campbell: He said "Yo" not "No".

The Convener: Well please make that clear. Either agree or disagree. Both of you are very badly behaved today.

Mr Gibson: We have a very internationalist approach to culture.

The Convener: The third instrument is the Commissioner for Local Administration in Scotland (Designation) Order 2000 (SSI 2000/51). Are we all agreed on that instrument?

Members indicated agreement.

The Convener: The next instrument is the Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2000 (SSI 2000/55). Are we all agreed on that instrument?

Members indicated agreement.

The Convener: The next instrument is the Valuation for Rating (Decapitalisation Rate) (Scotland) Regulations 2000 (SSI 2000/56). Are we all agreed on that instrument?

Members indicated agreement.

The Convener: The next instrument is the Non-Domestic Rating (Rural Areas and Rateable Value Limits) (Scotland) Amendment Regulations 2000 (SSI 2000/57). Are we all agreed on that instrument?

Members indicated agreement.

The Convener: The next instrument is the Valuation for Rating (Plant and Machinery) (Scotland) Regulations 2000 (SSI 2000/58). Are we all agreed on that instrument?

Members indicated agreement.

The Convener: The final instrument is the Local Government Pension Scheme (Management and Investment Funds) (Scotland) Amendment Regulations 2000 (SSI 2000/74). Are we all agreed on that instrument?

Members indicated agreement.

Mr Harding: At a meeting a month ago, the minister presented some negative statutory instruments on utilities. I asked a question that the minister did not understand, despite the fact that he is a mathematician. He assured me that I would be responded to later that day. Eight days ago, the Executive told me that a response had been posted to me, but I still have not received it.

Mr Gibson: I asked the same thing as a written question, but it has not been replied to.

Mr Harding: I have done that as well.

Eugene Windsor (Clerk Team Leader): We received a response last week and we have circulated it to members.

Mr Harding: I have not received it.

The Convener: We will see whether we have to send it out again.

Donald Gorrie: Some of the instruments are technical; others are not. Although they are important, we are given inadequate background

information. For example, one was about rural small businesses and another was about non-domestic rating. It would be useful to know how many people are affected by such instruments and so on.

The Convener: That is why the instruments are sent out to members. You can read them and ask for more information if it would help you. I understand that wish, as Bristow Muldoon and I, as members of the Subordinate Legislation Committee, are always asking for the instruments to be more understandable or for the explanatory notes to be fuller.

Mr Paterson: Excuse my ignorance, but I thought that the negative instruments were basically a *fait accompli* and that it was impossible to do anything with them other than reject them or accept them.

I do not think that it is helpful for the note from the Executive to use terms such as “around £1.5 billion”. That kind of terminology invites questions and might cause people to wonder what we are doing.

The Convener: We talked about that figure in the Subordinate Legislation Committee this morning. It has been picked up on. If any members find things like that in any instruments or explanatory notes, they should ask for clarification.

Members can agree the content of each instrument or recommend that the instrument be annulled, which I suspect we would not want to do. We must all read them in advance and decide whether clarification is required. We could ask civil servants to explain them to the committee next time.

Mr Paterson: That would be too late to ask about that figure, though.

The Convener: The figure was asked about this morning.

Mr Gibson: I remember the good old days when we used to get ministers to come before us.

The Convener: We do not need ministers to explain the instruments to us.

Bristow Muldoon: Statutory instruments are important. Through them, ministers use powers that they have been granted to amend legislation. It is important that people read them and understand what they mean. Parliament has a right to reject them if it is felt that the Executive is using its powers in a way that we do not approve of.

Trish Godman and I are members of the Subordinate Legislation Committee, so we are perhaps more comfortable with the instruments than many members of the Parliament are. It might be useful to arrange a briefing on the

different types of statutory instrument, which would cover subjects such as which ones can be amended and the way in which they progress.

The Convener: I close this part of the meeting and ask the public and the *Official Report* staff to leave.

15:39

Meeting continued in private until 17:03.

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