

LOCAL GOVERNMENT COMMITTEE

Tuesday 5 September 2000
(*Afternoon*)

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LOCAL GOVERNMENT COMMITTEE

24th 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)

Brenda Campbell (Convention of Scottish Local Authorities)

Mr Frank McAveety (Deputy Minister for Local Government)

Mike Palmer (Scottish Executive Development Department)

Councillor Craig Robertson (Convention of Scottish Local Authorities)

CLERK TEAM LEADER

Eugene Windsor

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Craig Harper

LOCATION

Committee Room 1

Scottish Parliament

Local Government Committee

Tuesday 5 September 2000

(Afternoon)

[THE CONVENER *opened the meeting at 14:03*]

The Convener (Trish Godman): Right, comrades, here we go again. I welcome everyone back from the summer break.

We have with us some visitors from the National Assembly for Wales. Jocelyn Davies represents the South Wales East region, and Dai Lloyd is the shadow Secretary for Health and Social Services in the Assembly. They were at the Subordinate Legislation Committee this morning, which I am sure they found interesting.

At the back of the room, we have Stuart Paterson, a student from Buckhaven High School who is following Keith Harding around. That should also be interesting.

I will not mention the singing of Sylvia Jackson and Donald Gorrie at a night out as I would get into trouble with the Presiding Officer—it was indescribable.

McIntosh Report

The Convener: We have with us the Deputy Minister for Local Government, Frank McAveety, and Mike Palmer, the branch head of the local government group in the Scottish Executive. Frank has been here before and knows the drill. He will speak to us for a few minutes before taking questions.

The Deputy Minister for Local Government (Mr Frank McAveety): I am tempted to suggest that Donald and Sylvia are the Renee and Renato of the Scottish Executive partnership parties. If anybody has heard their records, they will understand how much we suffer.

I thank the committee for allowing me the opportunity to come back. The last time I was here, I was accompanied by a larger battalion of civil servants. Today, the civil service has a leaner, meaner representation in the form of Mike Palmer, who will be able to deal with issues of detail if required.

The committee received a letter from me on 21 June that dealt in detail with the post-McIntosh areas that the committee and the Executive are advancing. Much work has already been undertaken and many advances have been made.

I want to bring the committee up to date with what the Executive has done in a number of areas.

As the committee will know, we asked Alastair MacNish to be the convener of the leadership advisory panel, which has undertaken—at little or no cost to the Executive, due to the good will and support that has been evident—to go round local authorities in Scotland and work with them on the management structures of their councils. We expected that that work would be concluded by the end of this year, but Alastair MacNish has made representations to Wendy Alexander and me as a result of the positive way in which the work with councils has developed. He believes that a bit more space and time might be required to allow councils to take further their ideas on their political and management structures. There are many reasons for that. Different councils were at differing stages of development with regard to their assessment of their political and management structures and some councils wanted to see whether they could take signals from the Kerley recommendations. Councils genuinely wanted to have a look at the bigger picture. The ministers have agreed to Alastair MacNish's request to extend the time scale to early spring. The principle behind that decision is the desire to get it right. Members of the committee will have discovered, as I have, that it is useful to take council members on a different journey to arrive at a situation that has longer term benefit.

The Kerley report was received by ministers, who made initial responses to it in the media. The matter is now with the ministerial working group, which has planned a series of meetings convened by the First Minister to address the report. The timing of local government elections is important in that regard; when we visit councils, we are made aware of the importance of that.

Prior to the recess, Wendy Alexander identified the Executive's commitment to respond to the material contained in McIntosh and the post-McIntosh consultation. We want to legislate to introduce a power of community initiative and a statutory underpinning for community planning. I know that many committee members have been engaged in a dialogue with the Executive ministers on that matter. That is welcome.

We envisage a consultation process to elicit views on what, if any, existing statutory prohibitions might be lifted to facilitate the exercise of the power of community initiative. We also want to establish what reasonable parameters should be applied and how they should be defined. We want to do that in partnership with the committee, which has a large amount of relevant expertise. The issues are complex, so it is important that we engage in a thorough consultation process to ensure that, when we produce a bill, it has broad

support. We plan to publish that consultation paper this autumn and we welcome the committee's views.

The other issue that was outstanding from McIntosh was consultation on whether the ban on council employees serving as members of their own council should remain. We accept that there is a compelling case for relaxing the rules and we have outlined a way that will allow council employees, other than those in politically restricted posts, to stand for election without first having to resign from their posts. We want to suggest how that might be done and invite views from all who have an interest.

One of the key issues around McIntosh was the matter of encouraging more folk to participate in local government representation. We want to ensure that there is ample opportunity for removing obstacles to that. Lots of people have an interest in the matter, such as the different staff unions, councils, council staff who are affected by the current ban and those who have had to resign under the legislation. We want to hear those views. We are not of a mind to allow people to stand for election in the same council that employs them. There are different views across the local authorities on that. We decided that, on balance, it would be appropriate to retain that restriction, but to try to relax some of the other restrictions.

We have considered the terminology that was introduced by the previous Government on politically restricted posts and the use of salary to determine political sensitivity rather than the nature of the post. We have concluded that salary threshold is not a reasonable measure of political restriction and that it clearly restricts many employees whose posts are not politically sensitive. In line with the position of the Convention of Scottish Local Authorities, we have concluded that the threshold should be abolished altogether. That would mean that the nature of a post would be the only determinant of political restriction.

We should consult further on which types of post should be considered politically restricted and whether there should be any change to the designations in the current legislation.

That is the point we have reached in most of our post-McIntosh consideration. We have the opportunity to shape and influence much of the big debate on the power of community initiative and the role of community planning. I am sure that that will be welcomed by councils across Scotland who see it as an opportunity for local government to play a dynamic and creative role, rather than a reactive one. That is something from which we can benefit. As I said, we await the outcome of the ministerial working group on Kerley.

The Convener: Thank you, minister.

Bristow Muldoon (Livingston) (Lab): I welcome the position towards which the Scottish Executive is moving regarding the power of community initiative. That was called for by almost every local authority in Scotland and will be welcomed broadly by local government. That is a positive step.

I have a question about Scottish Parliament elections and local government elections being held on the same day, although the answer might be that the Executive is awaiting the outcome of the considerations of Kerley. I expect that a decision on that issue will have to be taken prior to any decision on an overall legislative programme that might come out of Kerley. Can you update us on the Executive's views on that?

Mr McAveety: The ministerial working group will address that issue. It is very difficult for me to comment on the detail of that because the matter is still to be deliberated upon. Everyone in the working group would like to arrive at an early conclusion to facilitate some progress on that. It may be that the issue is treated differently from the broader debate.

Mr Gil Paterson (Central Scotland) (SNP): Minister, I refer you to the point about the position of council employees. Are you suggesting that no matter what position an employee holds, they would be required to resign from council employment were they to be elected?

Mr McAveety: We would not wish to change that restriction in local government. We felt that there are other issues that should be dealt with.

Mr Paterson: Is that the position regardless of whether the employee is a cleaner or a teacher? You are not really relaxing anything if people would lose their jobs should they be elected to the council. In rural communities, the council employs many people, yet they do not have any political influence as a result of their employment.

Mr McAveety: Having consulted widely and visited 30 of the 32 councils, I can tell the committee that no council expressed desperate enthusiasm for allowing its employees to stand for election in that council. Councils had strong opinions on the threshold and the way in which political restriction operates. There was concern about whether people were disadvantaged by making themselves available to stand and having to resign their post. People might want to stand out of commitment to a political party, on the basis that standing would allow the electorate some choice, and such people would be disadvantaged. We felt that flexibility in that respect was important. However, we do not want to relax the restriction on employees of a local authority standing for election to that authority. People argue that there are

certain posts that are not related directly to political activity, but in the range of council activity there are tangential links that may cause difficulty. For the sake of clarity, we would prefer to retain that restriction.

14:15

Mr Paterson: I beg to differ in my interpretation of the evidence from councils. It seems to me that a restriction would be required in the case of top posts, but I did not hear any evidence to suggest that ordinary workers should lose their employment if they stood for election—rather I heard the opposite opinion.

Let me move on to another point.

The Convener: Perhaps you meant to say, "Can I move on to another point?"

Mr Paterson: I am sorry, convener.

The Convener: As it is our first day back, I shall let you off.

Mr Paterson: Convener, would you mind if I asked a supplementary question?

The Convener: I do mind, but I shall let you off, Gil.

Mr Paterson: Thank you.

What the minister suggests is punitive because a person who stood and did not get elected would lose their job. That might contravene the European convention on human rights. The Executive is treading a thin line.

Mr McAveety: I shall ask Mike Palmer to respond to the legal aspect of that question.

Mike Palmer (Scottish Executive Development Department): First, we would propose a relaxation on the ban on employees becoming members of their own council. Such employees would not have to give up their job until they knew whether they had been successful in the election. Currently, employees have to resign as soon as they are nominated for election.

Secondly, on the possibility that an unsuccessful candidate would be unable to return to the post that they had held previously, we have an open mind on what might need to be done to resolve that issue. We are not necessarily saying that we need to introduce some kind of imposition in that area. However, we are conscious that some quarters might feel that there are perceived conflicts of interest because an individual would have made their political colours known by standing for election. It is reasonable to consult to find out whether people think that a mechanism should be put in place to resolve any perceived conflict of interest. However, we do not need to pursue that if people do not think that it is right.

It would not be our objective to penalise individuals in terms of their employment. That is the last thing that we would want to do.

The Convener: This matter worries me. You say that there might be a conflict of interest for someone who was a cleaner or a social work assistant, but other people who are allowed to be councillors would have similar conflicts—people such as businesspeople or those who work in voluntary organisations. I am not sure where the Executive is coming from on that point. Either there is conflict or there is no conflict. I can think of many examples. Gil Paterson was on a council and was a businessman and the Executive could challenge Gil's position on the same basis as it would challenge that of someone who was a cleaner.

Mr Paterson: I agree.

Mr McAveety: I would say that those are hard cases. Sometimes there are conflicts of interest that cannot be seen directly. At issue is whether local government feels comfortable with those. In the consultation in which we have engaged a clear majority felt that the ban should be retained, with some relaxation. I feel that we are responding to that consultation.

This is about striking a balance. We may not agree about how to do that, but on balance it is better to deal with other matters, rather than the specific issue of a person being able to remain an employee of a council in which they may be making decisions on matters such as budgets and scrutiny. There are potential difficulties with that. Given the nature of political debate, people could be challenged on a range of issues, on the basis that there is a conflict of interest. We would rather avoid that.

Mr Kenneth Gibson (Glasgow) (SNP): I wanted to raise a similar issue. I am concerned about the fourth Executive recommendation under question 6, which states:

"If unsuccessful, employees would as far as possible retain the same duties unless a panel consisting of the council Chief Executive and 2 other chief officers considered that there was a conflict of interest".

That makes me very uneasy. What safeguards would be introduced to ensure that individuals were not discriminated against because of their political views? Someone of one political persuasion might find themselves in front of this star chamber, whereas someone of another political persuasion might not. I think that it is unnecessary to include this provision. The aim may be to relax the restrictions slightly to allow people to stand, but I do not think that many council employees will want to stand if they have to go through this rigmarole when they are not elected.

Mr McAveety: Mike Palmer will explain the background to that proposal.

Mike Palmer: We do not intend there to be a standing machinery that would be wheeled out as a kind of star chamber, before which each individual would have to appear. We hope that, routinely, there would be no need for this procedure, that the individual concerned would be able to return to their employment, and that there would not be a blow-up that might indicate that an objective view from a tribunal was required. The machinery would be held in reserve, to be activated whenever there was a perceived conflict of interest. The intention is to protect individuals, rather than to penalise them. The aim is to prevent a person being used as a political football by bringing in a neutral, objective, independent arbiter who can resolve whether there is a conflict of interest.

Perhaps the paper that we have given the committee makes the proposal look rather firmer than we would wish. We want to consult on it and are happy to hear what the committee and other consultees have to say. In light of that, we can consider whether we need to enshrine the proposal in statute. We may be able simply to rely on internal grievance procedures, for example.

Mr Gibson: From what you are saying, the procedure would seem to be more subjective than objective. That would cause concern to people in the situation that we are discussing.

In your view, if council employees take special leave to stand for election, should that be paid or unpaid leave?

Mr McAveety: I have no firm views on that.

Mr Keith Harding (Mid Scotland and Fife) (Con): Several of the recommendations are still to be resolved or discussed. When do you expect the local government bill to come before Parliament?

Mr McAveety: Given the legislative programme that we are facing at the moment, everything is provisional. I would have thought that autumn 2001 might be a potential starting date.

Mr Harding: Do you agree that that would make it very difficult to implement many of the recommendations before the next elections?

Mr McAveety: That is part of the discussion that must take place within the ministerial working group.

Mr Harding: So no decisions have been made.

Mr McAveety: The nature of the local government bill and the pace of its introduction are dependent on those decisions being made. We would like to think that this time next year the

Parliament will have begun consideration of a local government bill. Even if we did not address the issues that have come out of the ministerial working group, there would be a lot in the bill, such as best value, community initiative and various other things. I expect that the bill will be introduced then, but it all depends how the legislative programme develops.

Mr Harding: I welcome the report today. I am disappointed that the minister did not support me and stick to his guns on elected mayors.

The Convener: So is Frank.

Mr McAveety: For the record, I have no opinion on that, convener.

Donald Gorrie (Central Scotland) (LD): The minister has ambitions.

Mr McAveety: We all have ambitions, Donald—even you.

Donald Gorrie: That is right. Just try me.

If I may be boring, I will go back to the question of employees becoming councillors. Does the minister agree that existing councillors are not entirely disinterested in that matter and that their views must therefore be taken with a pinch of salt, as the proposal would increase competition for their places? Does he also agree that much of the official dialogue so far has displayed a total ignorance of the real political situation? If X, who is a school janitor and a rampant Liberal Democrat—a very dangerous sort of person—

Mr Paterson: There are not many of them.

Donald Gorrie: It is a hypothetical example. Try us.

The idea is that, because he or she is not a councillor, he or she cannot exert political influence through the unions and so on while working for the council, whereas if he or she becomes a councillor, all that wicked influence can be developed through the council. I would have thought that the true position is entirely contrary to that. Once a person is a councillor, they are there to be scrutinised and any influence can be seen quite clearly. The much more pernicious influence is behind the scenes, if the view gets about that X is important in whatever party—it may be the party that is in power—and gets promotion because of that.

The whole argument against employees becoming councillors is entirely contrary to my experience of life as it is really lived. Would Mr McAveety care to comment on those issues?

Mr McAveety: I have visions in my head of a Liberal Democrat janny and how he would clear a playground.

There are two points. First, it is a matter of opinion. One could argue equally that someone who is an elected member and an employee, and so has advance knowledge of a whole range of information relating to personnel, development and budgets could be disproportionately influential in debates as a result of their awareness of those issues. That is one of the concerns that councils have raised in meetings.

It is a matter of balance and judgment. There are issues to do with political restriction and people not being able to stand without risking their full-time employment, as well as the issue of subsequent protection that was raised by Kenny Gibson. The proposals have been framed so as to ensure that no one is penalised. It makes the process much more transparent. On balance, we felt that those issues were more powerful than the issue of people wanting to stand for the council that they work in. That could lead to disproportionate influence, which is an issue that must be considered. The issue is up for debate and is worth exploring, but it is our view not to concede on it at the moment.

Donald Gorrie: I expect that the issue will be debated. If you do not put it in the bill, I am sure that there will be an amendment to test opinion on the subject.

The Convener: One of the McIntosh recommendations was a review of local government finance, which the Executive has decided not to do, but which we will do. One of the things that comes up when we go round councils—I am quite sure that it happens to the minister as well—is concern about hypothecation and challenge funding. On challenge funding, there is concern about the time and money that is spent by councils bidding for different funds.

The Executive will not undertake a review of local government finance, but it is considering finance overall, and the committee accepts that. We will do our own thing, in terms of an independent review of local government finance.

You must be hearing from councillors that there is too much hypothecation, that challenge funding takes up a lot of time and that, when they get it, they do not know why, because the last time they bid they did not get it and they did not know why not. What are your thoughts on that?

14:30

Mr McAveety: To avoid confusion for those who are not members of the committee, I must clarify ministerial responsibilities. Finance is Jack McConnell's responsibility. However, as you touched on the general point, it is important to address the discussions that we have had with councillors.

Councils have expressed a strong view that they would like to have an open debate with the Executive about how we can achieve outcomes and deliver common objectives without having ring-fencing and hypothecation of funds. Interestingly, analysis of the budgets of some of the councils that put forward that argument shows that they hypothecate to specific departments to deliver outcomes locally, and feel that it is important to channel funds in particular directions to get the kind of outcomes that they want in their local social agenda or joined-up decision making. Maybe the debate is really about who can exercise the power—local government or the Executive.

First, in the discussions that have taken place with the Minister for Finance and COSLA, and with various local authorities, there has been a commitment to try to find a way through the local government finance mess that has existed for a long time—the nature of the criteria, the allocation of resources and the way in which the formula is identified. We are working extensively with COSLA to get some agreement on rural and urban poverty and deprivation indicators. That work has continued at a considerable pace, and I think that we will be able to come up with something that will address many of the concerns that have been raised.

Secondly, the Minister for Finance is trying to find ways of arriving at three-year settlements for current and capital expenditure. Councils have legitimately raised another issue about being able to plan further ahead, in place of the annual grind of budgets—trying to identify a different approach to expenditure guidelines. The system has not always delivered the kind of outcomes that we want, and there is debate about that.

There is also an issue over the role of capital expenditure rules. The Minister for Finance is working hard on that as part of the comprehensive spending review, which I hope will be announced in the near future. There is perhaps scope in that to address many of the concerns that you and I, convener, and members of the committee have raised.

There will be improvements for the forthcoming financial year, and we can address many of the short to medium term local government concerns that have been raised. As I said 10 months ago, the independent review will take much longer and will not deliver as quickly. On balance, we are getting there and heading in the right direction.

Johann Lamont (Glasgow Pollok) (Lab): Before I go on to make a more substantial point, I would like to make it clear that I would have been much happier if the Executive's position on the right to stand for election had been a presumption in favour of standing rather than a presumption against standing. The debate would then be about

who does not fit into that, rather than the other way round. That approach is preferable if a more representative local government is wanted. Look at the number of women who are employed in local authorities, for example. We ought not to be putting obstacles in the way of their standing.

I am very concerned about the phrase, “for reasons of political incompatibility”. If somebody is so obsessed by their politics that they cannot do their job properly, that is one matter; but if making someone’s politics public means that they cannot do their job, that is a very different matter and a bit worrying.

I want to follow on from the point that Trish Godman was making about local government finance. You mention in your paper that the Local Government Committee said that it would carry out its own review. It is important to underline that that was very much a second-best option for this committee. This committee wanted an independent review of local government finance.

Although it is a matter for the Minister for Finance, the fact that concern is being expressed over local government finance is creating a tension between local government and the Scottish Executive. Therefore, it is a matter for yourself and this committee to find ways of resolving that situation.

We have only to consider the latest Unison action—I will not talk about the specifics of its case. A clear dispute about where responsibility lies and the difficulties with underfunding of pay settlements has emerged between the Executive and COSLA. Do you not agree that an independent review of local government finance would allow that debate to be conducted in such a way that it might be resolved to everybody’s benefit? It would enable the Executive and COSLA to make their case and a judgment could then be made. At the moment the matter is being batted back and forth. There is an issue about the relationship between the Executive and local government, which we hope will be as constructive as possible.

Mr McAveety: I do not totally agree with all of that.

The Executive provides another window for people to say, “If only the Executive would distribute greater resources to local Government everything would be resolved.” As a minister, I could apply the same argument about the resource base in relation to the distribution within the Scottish block grant settlement, but I choose not to do that because I think that we should operate within the parameters that we have.

As I said before, one issue is that the time scale for an independent review of local government finance would be much longer than that for many

of the immediate concerns that local government has raised. The Minister for Finance has been working with COSLA to address many of those concerns. We await the outcome of the debate on the financial settlement due to local authorities for next year.

The case that local government should receive a larger share of the grant has been argued strongly by it, and I understand that. If we reached that conclusion, because we operate within the parameters of a resource base, the question would be from where else in the Scottish share the money would come. The folk who are arguing the case for increased funding have a responsibility to come to conclusions that show the same amount of rigour and analysis.

Concerns include whether local authorities can have flexibility in the guidelines, longer-term planning in local government finance, and capital consent combined with a growth agenda in the comprehensive spending review. I think that many of those concerns can be addressed. I think that we are arriving at a settlement that will benefit local government within the time scale that it requires rather than the longer one that an independent review would take.

In this committee’s review, it will find that the material and the conflicting arguments are complex. It is about making political judgments on what the balance should be. Those are inherently political deliberations rather than financial ones.

Johann Lamont: I was not suggesting that the Executive was going to do nothing as an alternative to an independent review. I have welcomed the fact that it is going to examine issues such as deprivation, given the area of Glasgow that I represent.

You described local government finance as a mess. Would an independent review mean that the conclusions would be more likely to stick with all those involved? While you can move on the individual matters that you have identified, you could also have a root and branch consideration of a structure that developed, to some extent, because of malign forces that were not committed to local government. You would be able to unpick that through an independent review.

Mr McAveety: Maybe.

If that debate was not about finance, something else would be seen as a conflict between the Executive and local Government. We are working our way through most of that. It is about finding a resource base. If we can address those issues, we will develop better ways of collaboration.

Dr Sylvia Jackson (Stirling) (Lab): I will go back to question 6, although I will broaden the discussion a little. This is not just about council

employees, it is about the issue, which is also addressed in Kerley, of how we widen access in a way that will attract more people to the posts. Assuming that the posts move in the direction of becoming full-time with proper pay, do you think that to get the best representation of people into these posts you should consider measures such as a sabbatical system or guaranteed unpaid leave, for at least one term, if not for more? If that is the general principle that we ought to be pursuing, why would it be different for employees at the council level?

Mr McAveety: Kerley was asked to find ways in which people can participate, part-time or full-time. The emphasis was on finding ways in which people could combine their employment with making a contribution as councillors, because much of the debate has been about the way in which committee work consumes a great deal of an individual's time, which makes them less able to do the more strategic work that we would want elected members to do locally. We are trying to find ways through Kerley to allow people to participate at whatever level.

There are differing views on that in urban and rural Scotland. Some urban authorities hold evening meetings to ensure that folk who are in work have the opportunity to attend. However, that militates against much of the contact with community groups that can take place in the evenings.

We are open-minded about how we can get the balance right. The Kerley report was the beginning of the process and the ministerial working group will touch on the big issues, such as the electoral system, that are part of the solution.

We have not had much submitted to us on the issue of sabbaticals. Mike Palmer might want to touch on that. I am open-minded about how we can encourage folk to stand. Ministers will soon meet with the business sector to discuss the fact that many people who are employed in the private sector find it difficult to get time off work to attend to their council duties.

Mike Palmer: As an outcome of discussions arising from the Kerley group, progress is being made in meeting representatives of the private sector. We want to discuss ways of making it easier for people to be released from their companies to serve in councils. The Executive and COSLA are examining ways of implementing the widening-access recommendations in Kerley. Of course, that is all subject to the outcome of the ad hoc group that is considering Kerley, which will give us the big picture. Progress is being made in addressing those issues and they are a priority for the Executive.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): Minister, I want to ask a further question about participation. I hope that I do not sound too disparaging about the leadership advisory panel but I am not convinced by the picture that you painted of a merry band of public-spirited volunteers working at minimal cost to the Scottish Executive. If it is working, great, but I am not convinced. A number of the recommendations that have been made today with regard to participation—consultation with community groups, civic education, electoral arrangements and so on—have been to do with the candidates who would go forward for election to the local authorities and the effect that things such as the timing and the nature of meetings and the business workload would have on them. The leadership advisory panel is the vehicle for examining those issues. Surely, given the importance of those issues, the leadership advisory panel must give a greater commitment to dealing with them rather than merely noting that everything appears to be going well and that councils are responding. The panel should put in more effort and give more direction. That might mean requiring more commitment from them rather than carrying on with the ad hoc process that you indicated was taking place.

Mr McAveety: Forgive me if you have received the wrong impression of the leadership advisory panel. The panel has gone around all the local authorities, revisiting some and identifying members of the panel who will work with local authorities. The feedback from councils has shown me that they welcome an external voice that can help them examine critically the way in which they organise their business. Sometimes, the politics of a council—the tightness of a situation—makes it difficult for someone to suggest a different way of doing things. It can be helpful if a third voice can make suggestions that can be subject to the kind of rigorous political debate that the politicians want and that ensures that a cosy stitch up is not agreed to.

There are two or three authorities that I would have predicted could have been difficult in terms of how they perceived the restructuring of the political and management structures, but following visits from the leadership advisory panel they have been given confidence about moving forward. Those authorities have benefited from that external voice.

14:45

On whether the panel is a "merry band"—that would depend on the time of day. It is, however, trying genuinely to get across the principles of transparency and accountability that were enshrined in the Minister for Communities'

statement when we first discussed the McIntosh report. More and more authorities are speaking about trying to take a thematic approach rather than being driven by departmental perspectives. They are trying to streamline the number of committees and release members to scrutinise business, irrespective of whether the authorities decide to go for an executive-scrutiny split. There is progress.

Through the panel, we wish to extend the principle of self-renewal that Wendy Alexander announced on 2 July, rather than take a prescriptive position in a year's time, when we might produce a local government bill and say, "Those authorities are just not doing X, Y and Z, and therefore we have to take a legal position on that." We would prefer to avoid that.

The work of the panel has been quite extensive on that matter. I know that Alastair MacNish is also re-timing a number of visits to discuss the way in which local authorities are organised. He met officers and elected members at different times and sometimes he met them together. They are trying to find a way to move the debate forward.

Colin Campbell (West of Scotland) (SNP): I will return to the question that Kenny Gibson raised about compulsory leave for council employees in the run-up to an election and on election day, and whether they should be paid. How long might they get off in advance of an election? Secondly, would being unpaid actively discourage people from getting involved?

Mr McAveety: At the moment, we envisage candidates being given time off prior to and on polling day to prevent any conflicts of interest. We have not said whether that leave would be paid or unpaid, because we should first address the principle and then examine that issue. Many folk choose to stand for election. At the moment, the matter is up for discussion.

Colin Campbell: We all know that going into politics—going through the mill and then not being elected—involves a lot of personal sacrifice and, possibly, career sacrifice. If one says to somebody, "You are a council employee. You can have one, two or three weeks off, but it is unpaid, pal. Get on with it," that will not actively encourage a lot of people to get involved—it will be a deterrent. Rightly, you say that going into politics is a choice that people make; it is a choice that most of us have made in our time. If, however, we want to widen the net to get more people involved, we have to examine the matter more constructively.

Mr McAveety: I am fairly relaxed about the debate. I am saying merely that many folk have stood for election at different levels successfully and unsuccessfully. They have accumulated their

normal leave in awareness that in a year's time they might be a candidate at a parliamentary election. I understand the financial issue and I do not get the feeling that it is a major disincentive to folk, but we can explore and deliberate upon the matter and arrive at a conclusion. However, the Executive does not have a firm view on the rights or wrongs of the matter.

Mr Paterson: May I make a quick suggestion and ask a quick question? The Government should check whether the response to question 6 complies with the European convention on human rights.

Mr McAveety: We have taken a note of that.

Mr Paterson: You are on dodgy ground, because a star chamber could look at somebody and say, "You do not fit the bill that you used to fit."

Mr McAveety: I would not want the Minister for Justice to shout at me.

Mr Paterson: Okay. Good.

On question 3, are you suggesting a change from a "power of general competence" to a "power of community initiative"? Is that a downgrading or narrowing of the parameters that have been asked for?

Mr McAveety: No.

Mr Paterson: Thanks—I am grateful for that.

Colin Campbell: It is just semantics.

The Convener: Many of those matters are being considered by the ministerial working group. When might we expect some response from that group? I appreciate that that question might be difficult to answer.

Mr McAveety: The working group has met to discuss the matter twice since the announcement. It has received papers that run through the issues on which there have already been questions. It is difficult to judge the time scale.

The Convener: Okay. I thank the minister for coming today. I am sure that you will take back one or two things to think about. The committee will pick you up on those points should you forget to address them.

Local Government Funding

The Convener: The next item on the agenda is the spending review submission from COSLA. I welcome Councillor Craig Roberton, who is COSLA's finance spokesperson, Oonagh Aitken, the chief executive, and the finance officer, Brenda Campbell, whom we have not met before.

Councillor Craig Roberton (Convention of Scottish Local Authorities): Thank you, convener. It is a pleasure to be here again.

COSLA's position is that we would like to move forward in partnership with the Executive. After all, we share most of the objectives that the Executive has set on the delivery of local services. We see this as an opportunity to address our common targets.

During our previous visit, we indicated that we were extremely concerned about the position of local government finance in Scotland. Since 1997, there has been a cut of about £500 million in the allocation from the Scottish Office and the Scottish Executive, which has been followed through year on year. As the committee will be aware, this year there is an opportunity to redress that shortfall through the spending review. We hope that, over the three years of the review, some measures will be taken to reinstate local government to the position that it used to enjoy in Scotland. Currently, the local government allocation is 36 per cent of the Scottish block and we hope that that will return to the 40 per cent share that we once enjoyed.

The figures suggest that in each of the next three years the comprehensive spending review will produce more than £1 billion of expenditure in addition to current expenditure. We hope that local government will receive a substantial share of that.

Although the booklet is a bit dense, there is an indication in a table—towards the beginning of the booklet—of our best estimates for likely increases in spending requirements over the next three years. Committee members will see that combined factors total more than £1 billion in next year's spending, £1.384 billion the following year and £1.6 billion in the third year. Those are substantial sums and represent our best estimates of the consequences of various spending decisions and increases in demand that local authorities are about to face. I need only mention various matters such as the McCrone committee recommendations, recommendations on care of the elderly and the landfill tax, which we expect will all sharply increase spending over the next few years. I must admit that those sums far exceed even the funds that are available under the comprehensive spending review. Although we are

not unrealistic enough to think that those estimates will be met in full, that is our negotiating position. We hope that the minister will take into account those expected expenditure figures and will do his best to address them. If there are any questions on the document, I could go into detail on it. However, I am content to leave the matter at that for the moment and to reiterate that such an opportunity has not occurred recently and that local government is making the best of it.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I want to focus on the detail of the McCrone committee recommendations. Those recommendations have to be funded, which is a political point that my political colleagues and I will make from here on in. The recommendations have been well received by the teaching profession and are an essential step in the right direction.

However, although I am not decrying your point, I am concerned by the mismatch of figures from McCrone and COSLA. Is there any way of avoiding in future the situation where you say one figure and someone else says another? In my view, that is not clever. I am not blaming COSLA or saying that COSLA is wrong, but I am bothered by that mismatch. Is somebody not doing their homework correctly?

Councillor Roberton: That is always a possibility. However, we have analysed the figures in considerable detail and expect the full implementation of the recommendations to cost £547 million. I understand that there have been discussions between our officers and officers of the McCrone committee, during which they have come to a common position on the figures. I do not believe that there is a serious difference of opinion now. However, Brenda Campbell was party to some of the discussions—perhaps she can answer that question.

Brenda Campbell (Convention of Scottish Local Authorities): A number of costs were initially omitted from the McCrone report, such as employers' costs. The committee made other recommendations that had not been costed at the time. COSLA's position was that all the recommendations should be costed from the initial stages and that there was no point in omitting any costs at those stages. We examined the matter in great detail. We have had a number of officer meetings with the Scottish Executive to try to reach a common position. The Executive's officers now recognise that our costs are more realistic. Sam Galbraith is setting up an implementation group on McCrone later this year and it is hoped that COSLA and the Scottish Executive will have a joint agreement on costs at that stage.

Mr Gibson: I share many of COSLA's concerns. If local government retains its share—even with the additional resource of £1.14 billion—it will not

be enough to meet the McCrone recommendations.

I have a specific question about section 94 consents. I asked Councillor Robertson about those consents when he was previously before the committee. I lodged a question on the subject for the Minister for Finance and I also asked a senior Executive civil servant about section 94 at a Local Government Committee meeting. I also asked COSLA a question about section 94. My concern is that we have received three different answers to it. What progress has been made during the past few months in getting some consistency and consensus regarding the impact of section 94 and its abolition? I share COSLA's view. Does the Executive accept that abolition of section 94 consents for general services would release £360 million, or does it still take the view that abolition would have no impact?

15:00

Councillor Robertson: I cannot answer for the Executive regarding its current position on that issue, although I believe that it might now be a little more sympathetic to our view. I understand that the Treasury has also been reviewing the equivalent provisions in England. I am not entirely clear about the relationship between the Executive and the Treasury in this area—the Executive might not be at liberty to take decisions on the matter independently if a Treasury rule is involved.

However, in our view it is a totally needless control because capital expenditure can take place only when the local authorities that are concerned can meet the borrowing requirement, which is controlled under the revenue measures. It seems a bit daft to control capital expenditure under the capital measures and the revenue measures. If capital expenditure were controlled only under revenue, receipts would not count and could be recycled within the local authority, as they would not be capital borrowing.

Information technology is one important area in which there could be spend to save. Local authorities could decide to make savings in one part of their revenue budget in order to accommodate additional debt charges and borrow to introduce IT that would save money in the long run. We have not changed our mind that the abolition of section 94 would be very useful for local authorities; indeed, we can see no justification for its existence. However, I cannot say what the Executive's current position on that is.

Mr Gibson: I wanted merely to see whether there had been a meeting of minds over recent months and whether there was a common view on how we can move forward.

Councillor Robertson: I think that we are moving towards that.

Mr Gibson: In many respects this is a very positive document, in which you have made a number of positive suggestions. However, great concerns are also expressed in the document, not least about the £440 million that local authorities might lose as a result of convergence. If there is not the reversal of funding policy that you talked about, might there come a point at which local authorities are unable to meet statutory requirements? Might that happen three, four or five years down the line, or do you think that we will be able to avoid such a crisis? Will the non-statutory areas suffer?

Councillor Robertson: I believe that authorities will always try to meet their statutory obligations, which take priority. Recently, there have been circumstances in which some authorities have found that very difficult. However, we are looking to the future and we must be positive about it. If the Executive accepts our bid for a fair share of the new comprehensive spending review money, the possibility of authorities being unable to meet their statutory obligations should recede. We would then be in a better position to avoid those circumstances.

Mr Gibson: The document claims that the position in local government finance is "unsustainable", which is why I asked the previous question. I was wondering at what stage it would become unsustainable in actual terms.

Councillor Robertson: That would happen if things continued in the way in which they have been going until now. The major cut that we received four years ago is not our only difficulty. The demand on services increases year on year and inflationary pressures increase every year. By and large, there has been little recognition of those pressures on local government.

The method that all local authorities have adopted to accommodate those difficulties has been to cut one part of their budget to subsidise another. That is unsustainable; if authorities make too many cuts, in the long run they will not be delivering the services that they were elected to deliver. I am full of hope that we are about to turn a corner and that such problems will no longer be an issue.

Donald Gorrie: In your submission, above the table on funding requirements over the spending review period, it is stated: "All figures shown cumulatively". I am not quite sure what that means. My interpretation of the word "cumulatively" might differ from yours. On the line that is labelled "DEMAND", the figure for the first year is £724 million and for the next year £1,044 million. Does that mean that the £1,044 million is

over and above the £724 million, or does the £724 million increase by around £300 million to £1,044 million?

Councillor Robertson: Our understanding is that those are the additional requirements year on year.

Donald Gorrie: So in the second year, a new £1,044 is needed?

Councillor Robertson: No—some of that is included in the first year.

Donald Gorrie: So another £300 million or so is needed?

Councillor Robertson: Yes.

Donald Gorrie: Annexe D of your submission refers to a number of new revenue expenditure pressures. I am sure that all the things that you list are desirable; but could you lead us through the ones that are legally essential to keep us all out of the courts, as opposed to the ones that are merely desirable? First you mention McCrone, then you mention school security.

Councillor Robertson: School security is extremely desirable and important, but I am not sure that it is a statutory requirement.

Donald Gorrie: What about the police communications systems and the national road safety targets? Are they also desirable?

Councillor Robertson: Yes.

Donald Gorrie: I understand what you say about pay awards, but what about going for single status employment? Is that a legal commitment?

Councillor Robertson: It will be, in due course. I think that there is a cut-off date for implementing single status; perhaps Oonagh Aitken can give more detail.

Oonagh Aitken (Convention of Scottish Local Authorities): I do not know that I can give much detail, but we are meant to implement single status during 2001, so that item on the list is essential.

Donald Gorrie: The next item is price increases, which I understand. What about the increases in superannuation contributions? Are they essential?

Councillor Robertson: That was because of the Chancellor of the Exchequer's abolition of the advance corporation tax.

Donald Gorrie: I know that there has been some stuff in the courts concerning primary head teachers' equal pay claims. Do you have to deal with that to stay out of jail?

Oonagh Aitken: It depends. That matter is sub judice at the moment.

Donald Gorrie: So if a case goes a particular way, you might just have to pay. Thank you—you have clarified things for me.

Mr McMahon: You must excuse me, convener—I am still trying to get my head round some of the statistics. My question is almost identical to Donald Gorrie's, although perhaps it is a bit more specific. I want to ask about pay awards—specifically, the table that does not include teachers' pay and the information about equal pay claims for primary head teachers. If I have understood correctly, the total in the third column of table C in annexe D of your submission is not a cumulative total and the total figure over the three-year period is, therefore, £210 million, not the £420 million that you would get from adding the three columns together.

Councillor Robertson: That is right.

Mr McMahon: Does that mean that, for the primary head teachers' equal pay claims, there is no increase in 2002-03?

Councillor Robertson: I think that that is just a one-off payment.

Mr McMahon: It is a bit confusing that some columns have cumulative totals and others do not. It is not obvious how the tables should be read across the columns.

Councillor Robertson: The difficulty is that the figures are not yet settled. The £70 million in the first column is a guess, as is the £210 million in the third.

Dr Sylvia Jackson: I am sorry—I have been looking at the tables when perhaps I should have been listening.

The Convener: Sylvia!

Dr Jackson: Sorry about that.

My question is very similar to Donald Gorrie's. If you think that you have already answered it, please say so, councillor.

The Convener: Sylvia was not listening, so she would not know.

Dr Jackson: I am trying to get the big picture. Are you suggesting that changes should be made and that deprivation and other key criteria should be used when deciding on distribution and so on? I hope that things will get started on that side of the matter, as we have agreed that that is necessary.

We do not have enough money to do everything that has been listed if we take into account the comprehensive spending review, obviously. I assume that one way round that problem is to do some things in phases—some things are perhaps more urgent than others. I think that Donald Gorrie

was trying to find out what we have to do.

Can you gaze into your crystal ball and tell us how you think things might pan out—or how you think things should pan out—assuming that you will get some money from the comprehensive spending review?

Councillor Roberton: The major expenditure lies in implementation of the McCrone report. If the Executive's view is that the McCrone report is a positive contribution to education, our view would be that its implementation would be very expensive and that the Executive should undertake to fund that. It would require a total of £546 million over two or three years.

Every local authority is suffering considerable pressure with regard to care for the elderly, which comes to roughly £195 million. We would like there to be recognition of the inflationary pressures on local authorities—that has not been a feature of the settlement. To cover such inflationary pressures, every local authority has had, in effect, to make cuts in existing services. We need to come to an agreement with the Executive in getting some recognition of that, although I cannot quantify it at this stage.

Capital is a major matter that requires to be dealt with. Very little expenditure has been accorded in several important areas. Two examples are school buildings, which we estimate require £1.3 billion of remedial work, and roads and bridges, work on which is evaluated at £1.2 billion.

Those are the big numbers. Capital could be spread over several years—it is not necessarily a question of having a hit-all allocation in one year. However, the areas that I have mentioned have for many years been ignored in local government expenditure. During the past 15 or 20 years, priority has always been given to revenue costs at the expense of capital. Those areas can no longer be ignored and in many areas extremely dangerous situations have arisen that we must address.

To sum up, on the capital side we must address schools and roads and on the revenue side we must address the McCrone report's recommendations, care of the elderly and paying prices that are affected by inflation.

The Convener: I thank you again for coming along, Craig. I am sure that I speak on behalf of every member of the committee when I say that local government finance—which has been at the core of many of the committee's deliberations since it formed—is a complex area and I would not pretend to know all the issues from beginning to end.

Councillor Roberton: Nor would I.

The Convener: Those of us who have been involved in or worked in local government know that there comes a point when we cannot do any more—when councils cannot pay back any more than they have been paying. I feel that the committee is sympathetic to that.

You said that you hoped that you were turning the corner in COSLA's relationship with the Executive. I am sure that you appreciate that the set-up is different now and that the Executive is listening. I hope that it will produce the goods.

As you know, the committee will keep an eye on things and will carry out its own independent review of local government finance. However, I have one plea: could somebody press the button on the COSLA computer that numbers your documents' pages?

15:14

Meeting adjourned.

15:22

On resuming—

The Convener: Welcome back, comrades. I see that Kenny Gibson is going to interrupt me.

Mr Gibson: Before we start, I want to say that I would like, when we get to them, to make a comment about the statutory instruments.

The Convener: My goodness, Kenny. I will write that down in my book.

Petitions

The Convener: We continue our meeting with agenda item 3, on petitions. Members have a covering paper with each of the petitions, all of which relate to the planning system. Members are at liberty to decide whether further action is required, but will note that the Transport and the Environment Committee has already commented on the first petition—PE132—and that the other two petitions are merely for members' information. However, Donald Gorrie might want to make a general comment and have his point recorded.

Donald Gorrie: Thank you, convener. I am afraid that it is not a very clear point.

I read through the three sets of papers this morning. There are two aspects to planning. First, there is the technical side to do with the environment, the use of land and all that. The other side is to do with local democracy, which, it seems to me, is clearly within the remit of the committee. We should, therefore, be involved. I am sure that we have all experienced a lot of dissatisfaction with the planning process in Scotland, especially in relation to objectors not getting a fair go. We should be involved in the discussion. Perhaps we could ask the Executive whether it has any plans to reform planning law or to improve the democratic aspects of the system.

Colin Campbell: In the past couple of years, I have gained immediate experience of going to planning appeals that were sponsored by the firms that failed to get planning permission. I always thought that it was a bit ironic that the democratic decision of the elected council could be challenged by the builders, but could not be challenged in the same way by the citizens who did not like the outcome. There seems to be an inequality there, which should be addressed.

Mr Gibson: That position is unsustainable. It is important that we move towards a change in the system.

Dr Jackson: I thought that there was an on-going review of some aspect of planning. Does the clerk know any more about that?

Eugene Windsor (Clerk Team Leader): I think that there is such a review.

Dr Jackson: I know about the review only because a document was sent to my constituency office. As there is so much concern over the local democracy aspect, as members have already mentioned, I immediately sent that document to the people by whom I had been approached, asking for their views. The deadline for that review is quite soon—I believe that it is September—although I asked for it to be extended, as the time

scale covered the summer holiday period.

The Convener: A review by the Scottish Executive?

Dr Jackson: It had come from the Executive, yes.

The Convener: It seems that it would be a good idea for me to write to the Executive, asking whether it is conducting such a review and what plans it has to reform planning. We can take up the matter once we have received a response. Are we agreed?

Members indicated agreement.

The Convener: Okay, we will do that.

In the meantime, we have three petitions in front of us. The Transport and the Environment Committee commented on the first of those and the other two have been submitted to keep us up to date. Donald Gorrie has a point when he says that, given that we have an overview of local government and given that the issue of planning often arises in our surgeries, we should consider that issue at some point.

Do we agree to note the petitions for information?

Members indicated agreement.

Subordinate Legislation

The Convener: We have before us five negative instruments, which were sent to committee members some time ago. So far, we have received no comments; however, Kenny Gibson has obviously caught up with himself and will comment on something at some point.

All the instruments have been considered by the Subordinate Legislation Committee, whose reports are included in your papers. The Subordinate Legislation Committee considered that the attention of the Parliament need not be drawn to SSI 2000/199, SSI 2000/206, SSI 2000/207 and SSI 2000/208. In the case of SSI 2000/193, the Subordinate Legislation Committee asked the Executive for clarification on two points. The report on the instrument is contained in annexe C, page 10 of the Subordinate Legislation Committee's report of its meeting on 4 July; the Executive's response to the committee's inquiry is reproduced in appendix D of the same report. Members will have noted that the Subordinate Legislation Committee was quite happy with the Executive's response to its questions.

In the cases of all the instruments, no motions to annul have been lodged and no other action can be taken on the instruments at this time. We have to make decisions.

Mr Gibson: I looked at SSI 2000/193 and SSI 2000/199 a couple of weeks ago. I phoned Craig Harper, but he was not around. I forgot to phone him back subsequently, for which I apologise.

The issues that I want to raise concern the financial effects. For example, the Executive briefing note on SSI 2000/193 says, under the heading "Financial Effects":

"Any additional expenditure for police authorities is not expected to be significant, and should be found from existing resources."

The briefing note on SSI 2000/199 is very similar, and states:

"Any additional expenditure arising from the changes can be found from local authorities' existing resources."

Given what we have heard about the pressing need for additional resources for local government, in cases such as this we should have some details of exactly what the changes will cost local government. What does "not significant" mean? Does it mean £100,000 or £10 million? When we are told that

"Any additional expenditure . . . should be found from existing resources",

we should be given some detail of that expenditure. The committee needs more information, as that does not tell us anything.

The Convener: You are stuck with that, as the instruments are in force already. However, I am happy to write to ask for clarification and more information. As you forgot to get back to Craig Harper, that is fair enough.

Mr Gibson: My intention was not to move a motion opposing the instruments; I was just seeking information prior to the committee meeting.

The Convener: If you want clarification, I have no problem with writing to seek that.

Mr Gibson: If the instruments have financial effects, it is important that we should know the extent of those effects.

The Convener: That is a fair comment.

Is the committee agreed that it does not wish to make any recommendation in relation to the Police Pensions (Scotland) Amendment Regulations 2000 (SSI 2000/193)?

Members indicated agreement.

The Convener: Is the committee agreed that it does not wish to make any recommendation in relation to the Local Government Pension Scheme (Scotland) Amendment Regulations 2000 (SSI 2000/199)?

Members indicated agreement.

15:30

The Convener: Is the committee agreed that it does not wish to make any recommendation in relation to the Local Government (Exemption from Competition) (Scotland) Amendment Order 2000 (SSI 2000/206)?

Members indicated agreement.

The Convener: Is the committee agreed that it does not wish to make any recommendation in relation to the Local Authorities (Goods and Services) (Public Bodies) (Scotland) Order 2000 (SSI 2000/207)?

Members indicated agreement.

The Convener: Is the committee agreed that it does not wish to make any recommendation in relation to the Local Government Act 1988 (Competition) (Scotland) Amendment Regulations 2000 (SSI 2000/208)?

Members indicated agreement.

The Convener: Did the official reporters get all that? Good.

Kerley Report

The Convener: On what we plan to do about the Kerley report, members know that we have written to all the councils and I suggest that we wait until we get information back from them. We will collate that information—or ask Morag Brown to do so, which sounds a better idea to me—then consider the responses.

Once we have considered that information, we may wish to take it further and to produce a committee report. I suggest that we discuss that once the responses have come back, when we can work up some proposed draft terms of reference.

Members have received the first report from Rita Hale, which I hope they will read and keep to themselves until our next meeting. I put it to the committee that rather than having our next meeting on 12 September, which is next Tuesday, we should postpone it until 19 September. Members will appreciate that we are just back after the summer recess and Eugene Windsor and I are working on our programme. It would suit us better if we put everything together and moved that meeting to 19 September, rather than have two short meetings. Do members agree?

Members *indicated agreement.*

The Convener: Having said that, I will not be here, probably.

Colin Campbell: Can we not meet next week?

The Convener: Do not get upset because we are not meeting next week, Colin. I know that your life is dull and boring. [*Laughter.*]

Colin Campbell: Only because I live in your constituency, convener.

Donald Gorrie: Unfortunately, my party has chosen to have its conference then.

The Convener: Your apologies are noted. [*Interruption.*] If members mumble, the official reporters will get upset. I will close the meeting before we discuss housekeeping arrangements.

Meeting closed at 15:33.

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