

LOCAL GOVERNMENT COMMITTEE

Tuesday 14 November 2000
(*Afternoon*)

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LOCAL GOVERNMENT COMMITTEE

30th 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

Angela Allen (Glasgow City Council)

Brenda Campbell (Convention of Scottish Local Authorities)

Lynne Davidson (Strathclyde University Students Association)

Paul Dowland (Aberdeen Citizens Advice Bureau)

Frank Duffy (Scottish Executive Council Tax Policy Branch)

Kenryck Lloyd Jones (National Union of Students Scotland)

Ainslie McLaughlin (Scottish Executive Development Department)

Mike Peterson (City of Edinburgh Council)

Mandy Telford (National Union of Students Scotland)

Gillian Thompson (Scottish Executive Enterprise and Lifelong Learning Department)

Alan Traynor (Fife Council)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Craig Harper

LOCATION

The Hub

Scottish Parliament

Local Government Committee

Tuesday 14 November 2000

(Afternoon)

[THE CONVENER opened the meeting at 14:00]

Education (Graduate Endowment and Student Support) (Scotland) Bill: Stage 1

The Convener (Trish Godman): Right, comrades, let us start. Today we are considering the Education (Graduate Endowment and Student Support) (Scotland) Bill, which is at stage 1 of its progress through Parliament. I remind members that we are considering the section that falls within the committee's remit, that is, section 3, which relates to the proposed changes in council tax legislation.

Members will be aware that the Enterprise and Lifelong Learning Committee is the lead committee on the bill. We have to make our report to that committee. Members will also be aware that the bill is about to be reintroduced in a redrafted form. It is understood that no changes to section 3 are planned, but we will not be able to finalise our report until we have considered the reintroduced bill.

Our first witnesses are from the National Union of Students. Mandy Telford is the president of NUS Scotland, Kenryck Lloyd Jones is the Scottish affairs officer of NUS Scotland and Lynne Davidson is a welfare adviser. They will make their presentations and the committee can then ask questions.

Mandy Telford (National Union of Students Scotland): Thank you for inviting us to give evidence. I should add that Lynne Davidson is the welfare adviser at Strathclyde University Students Association and so has first-hand experience of dealing with student hardship problems.

We welcome the Scottish Executive's recognition that students continue to experience hardship under the council tax system. Since 1995, NUS Scotland has been seeking changes to that system along the lines suggested in our written submission, which outlines what we feel about the bill's proposals. We are happy to take questions on what we feel about the current legislation, what changes to that legislation we would like and how the bill will affect students. Lynne Davidson can also talk about her first-hand

experience.

The Convener: Do Lynne or Kenryck wish to say anything at this point?

Lynne Davidson (Strathclyde University Students Association): We are happy to answer questions.

The Convener: Before I ask members whether they have any questions, I remind them that, although I will accept a range of views, we need to focus the debate on council tax. I will not allow members to meander into discussion of wider aspects of the bill because, as I said, the bill is being redrafted. We must focus on questions that are relevant to section 3.

I have a general question. I read the submission and understood it, which is quite remarkable for me—it must have been written in very good English. However, much of your evidence is anecdotal. Do you have any independent report or review of the effects of the council tax arrangements on students?

Lynne Davidson: I have statistics that are compiled by our office, but I do not know how much they will tell the committee, because even brief inquiries about, for example, council tax exemption forms are counted in the statistics. I can certainly give you information on typical cases.

The Convener: Has there been an independent review?

Lynne Davidson: Not that I am aware of.

Mr Gil Paterson (Central Scotland) (SNP): Do you have any idea what proportion of students are affected?

Kenryck Lloyd Jones (National Union of Students Scotland): I think that the numbers vary. We do not know the total number of those affected. We have asked local authorities whether they have figures, but they do not collect information on the number of students liable to pay council tax within their area, so it is difficult to get the statistics. We estimate that, for example, about 15 per cent of the population of Aberdeen are students. Edinburgh and Glasgow have a similar proportion of students, which is high. The question is then what proportion of students live with non-students. Of course, students' living circumstances change regularly, but we are talking about those living in private rented accommodation. I suggest that the private rented sector includes students and non-students in equal measure.

Dr Sylvia Jackson (Stirling) (Lab): I just want to make sure that I have understood the nub of the argument. The explanatory notes to the bill state:

"The effect of the amendments is that the same amount will be recoverable in respect of the dwelling but students

will no longer be jointly and severally liable for council tax and so will be excluded from those liable to pay."

In other words, where students live with non-students, although the students will not be liable to pay, the property will still be liable for council tax. There are two implications. Either the non-students would pay the whole amount or they would expect the students to make a contribution. Is that correct?

Kenryck Lloyd Jones: Yes.

Dr Jackson: In your submission, you mention the apportioned or personal discount system. I understand that you are saying that such a system would overcome these difficulties because the council tax would be brought down to a level that was proportionate to the number of non-students in the household, who would divide the council tax between them.

Kenryck Lloyd Jones: Yes.

Dr Jackson: Is there anything else that you want to say about your proposal? Have I missed something, or is that the nub of it?

Mandy Telford: Yes, that is the crux of our argument. Although the bill proposes to remove students from liability, in the real world, when the council tax bill comes in, students may still be expected to pay. It is unfair on the non-students that they are expected to pay the full council tax bill because they are sharing the flat with students. It is also unfair that students should be expected to pay, because they do not have the means to pay.

Kenryck Lloyd Jones: Although our proposal appears to reduce the council revenue—whereas the bill would make no difference to a council's revenue—in many cases the revenue from properties that contain both students and non-students is not being collected anyway. We have a large amount of anecdotal evidence, which I am sure that Lynne Davidson will expand on, to demonstrate that councils are not collecting the money because students seek to evade paying the bill.

We believe that more money might be collected under the system that we have proposed. For example, there is anecdotal evidence that, where students and non-students live in the same property, only students' names are on the lease so that the property does not attract council tax. If students had no fear of stepping forward to admit that they lived with non-students who would pay their share, that could lead to less evasion and more revenue collection. That is an important point.

Dr Jackson: Can we hear in more detail some anecdotal examples?

Lynne Davidson: Yes, there are plenty examples. I often get students making inquiries on how best to avoid liability for council tax payment. Students are now, thankfully, very aware that if they live with a non-student they could face a hefty bill. Students often come to my office and ask whether they are liable for the council tax bill that has been sent to them. When I tell them that they are, they ask what they should do. Some students whom I have seen have used their student loan to pay off the debt. Other students disappear.

Colin Campbell (West of Scotland) (SNP): Do more disappear than use their loan to pay off the debt?

Lynne Davidson: I do not know whether I can answer that, because I see only students who seek my advice—I do not see every student. I imagine that most students would disappear, although I do not know whether I am correct in assuming that. This issue causes students a great deal of anxiety. I have come across students who have withdrawn from their course because of the implications of having such a hefty bill and its being passed on to sheriff officers.

Colin Campbell: I can understand that.

Mr Kenneth Gibson (Glasgow) (SNP): The submission indicated that the private rented sector is being distorted by the current system. Have you any evidence that that is the case?

Kenryck Lloyd Jones: As we have pointed out, students are now reluctant to share houses with non-students, and non-students are reluctant to share houses with students if they cannot pay their way. All the evidence of advisers such as Lynne Davidson is that when a council tax bill arrives through the letterbox, students and non-students start reassessing whether they should be living together. That is a clear distortion of the council tax system. It is a serious disincentive. If we consider the way in which incentives and disincentives work within the general economy, it is clear that it does not take a great financial incentive for people to change their living circumstances. Something as significant as a £2,000 council tax bill will result in a serious distortion of the private rented sector.

The only hard evidence that we have is that we are contacted regularly by students who tell us that they could not take up leases on certain properties because they would have had to pay council tax.

Mr Gibson: Does that mean that people in the private rented sector are less likely to want to rent to students? Does it affect the level of student rent?

Kenryck Lloyd Jones: No.

Mr Gibson: That would be the implication of saying that the private rented sector is distorted.

Kenryck Lloyd Jones: The reason that it is distorted is that properties may sit with one or two empty bedrooms because students or non-students will be turned away, depending on who occupies the other rooms. Although the property will continue to be rented, there may be empty rooms in the property. At the beginning of the year, students are often desperate for accommodation and will take anything. However, they will not remain in a property where they have to pay council tax; they will move out. Such things affect the supply and demand of accommodation for both students and non-students. That is the distortion to which we referred.

Mr Gibson: Do you have any evidence of the scale of that?

Kenryck Lloyd Jones: No. There is no way of collecting figures on such matters, apart from asking housing associations if they have any relevant statistics. However, I cannot imagine that housing associations collate such statistics—they are more interested in collecting the rent.

Lynne Davidson: When students are looking for accommodation, not only do they consider whether accommodation is suitable in that it is dry, safe and carries a fair rent, but they consider the population of a flat to see whether anyone in the flat is working. That has implications for a student's sense of community. There are cultural and social advantages in sharing a flat with someone who is working or who has graduated. That is not happening at the moment, because students are rejecting flats in which rooms are occupied by working people.

The Convener: Your submission proposes an amendment to the council tax regulations by introducing a personal discount scheme. Could you outline the main features of such a scheme and the advantage it holds over the Executive's proposed approach? What are the positive elements of your scheme?

14:15

Kenryck Lloyd Jones: The system for assisting people on low income in paying council tax is council tax benefit. Council tax benefit provides a means for those without a high income to contribute to the council tax bill. It means that people can pay their share. The proposals that have been announced mean that if a property receives a bill, there is no way in which students can contribute towards paying the bill. That is the significant disadvantage of the Executive's proposals.

Someone on an income of £8,000 would receive

no help in paying the council tax bill, and if they shared a property with students, it is possible that they could end up with a bill of £1,500. That is an unrealistic burden on someone who earns £8,000 a year. It is unfair to expect students to have no way of contributing towards a bill for a property in which they live. The council tax benefit system is a reserved matter, and if that system is not to be used, we must consider how to reduce the bill to recognise the fact that people are living in the property who do not have the ability to pay their share of the bill.

The advantage of our scheme would be that students and non-students would not have to live in self-imposed ghettos.

Mr Keith Harding (Mid Scotland and Fife) (Con): Have you discussed with local authorities the practicalities of introducing such a scheme? I can see it becoming an administrative nightmare, particularly as students move around so frequently.

Kenryck Lloyd Jones: We have not had full discussions with local authorities, because only NUS Scotland has proposed the scheme. We are aware that local authorities would not like any system that would add to their administrative burdens. However, at the end of the day, we are concerned with creating a system that is fair, not necessarily one that is administratively simple. It might be possible for the council tax benefit system to also operate on an apportioned system. Instead of discounting a proportion of the bill, the system would pay the money for the proportion for which each individual is assessed as being liable. The same analysis would be used as that used under the council tax benefit system, but instead of paying the bill, the scheme would reduce the bill by the same amount for each student.

Mr Harding: My point is that students move more often than the rest of the population. I know students who move almost weekly. How would councils address the practicalities of that?

Kenryck Lloyd Jones: That is a problem with the council tax—populations move regularly. If someone who lives in a student-only property graduates, the property becomes liable, but if that person moves away, the property becomes exempt again. Those problems are inherent in the council tax. Given that framework, we are trying to ensure that students do not suffer.

Donald Gorrie (Central Scotland) (LD): I apologise for my late arrival. I was detained at another meeting. I would like to clarify the apportioned student discount that is set out on page 9 of your submission. It says that

"the student's apportionment would be calculated as one fifth of the total, reducing the bill by £300",

meaning that a £1,500 bill would go down to £1,200, but that all the residents, including the student, would be expected to pay that sum jointly. Is that the case?

Kenryck Lloyd Jones: The system is joint and several liability. We recognise that there are problems in removing people from joint and several liability, especially for one aspect of a property when they will remain jointly and severally liable for other aspects. We are not necessarily opposed in principle to the statement that students could be removed from joint and several liability.

We welcome the recognition that students have difficulty under the current system. An apportioned discount would reduce the need to look specifically at joint and several liability when they will remain jointly and severally liable for, for example, the rent, the water and sewerage costs and the gas, electricity and phone bills, depending on how many names are on those bills.

If there was £300 left to pay, it would be fair to say that if the working person were the person left with that apportionment, you might expect that working person to pay it. However, that would still be up to all the residents in a jointly and severally liable scheme. We are not saying that everything must remain jointly and severally liable, but we do not think that it would be a big issue if those bills were affordable.

Donald Gorrie: You argue that although students would benefit from the proposed scheme, they would find it harder to get flats because it would be less attractive to share with students. Is that part of your argument?

Kenryck Lloyd Jones: Everybody would be reluctant to share a property with somebody who was not legally liable or able to contribute to their fair share of the costs of living in that property. We do not think that that would be good for students in local communities. We are concerned about students in local communities rather than thinking about full-time students in isolation.

Bristow Muldoon (Livingston) (Lab): I can see the point that you are making in your submission. One possible pitfall is that under this scheme it might be possible for parents of students to avoid their own council tax liabilities by adding their son's or daughter's name to the title of their house. That would reduce their council tax liability. If there were such a loophole, some people may try to exploit it.

Kenryck Lloyd Jones: That would be the case only if the students were sharing their house with their parents and they were all jointly and severally liable. That would be unlikely. There is a hierarchy of liability for council tax. It begins with owner-occupiers: they are the people who are found

liable. The parents of most students are owner-occupiers whose children merely live in the property so they would not be liable for the bill, nor would the bill be reduced in view of their liability because they would not be liable. It would only occur in a situation in which students shared a flat with their parents. That is not common, so it is not a serious issue.

Bristow Muldoon: I wondered whether it would be possible for people to cynically manipulate this by adding their son's or daughter's name to the title deeds of the house and effectively giving them a share in the house.

Kenryck Lloyd Jones: We are dealing with rented property. It is a different case for those who own and live in the property. The legislation points out that it would not necessarily cover owner-occupiers who are students.

Mr Gibson: If parents live with their student son or daughter in rented accommodation and your scheme was adopted, the council tax would be reduced by a third or a quarter, or whatever the proportion happens to be. That would be an incentive for parents to encourage their offspring to stay at home when they were studying.

Kenryck Lloyd Jones: It is rare for people to share a flat, jointly and severally liable, with their parents, where the situation is, "You pay your share of the rent, I will pay my share and we will have an equal share in the property." If that were the case, it would be no different to a situation in which they lived with someone else or in which they did not live with their parents and were individual adults in their own right who claimed council tax benefit.

Mr Gibson: If two adults renting their accommodation together have a £1,500 council tax bill, they have to pay the whole bill. Correct me if I am wrong, but you are suggesting that if they lived with a son or daughter, then, because it would be assumed that the child would be liable for a third of the council tax, the bill would be reduced by a third. That is what is suggested by the scenarios in your submission. The second scenario says:

"Where more than one student lived with a non-student, each student would receive an apportioned discount for their share of the bill. Two students would both receive an apportioned discount of £300 each".

Kenryck Lloyd Jones: I should clarify that part of the submission. Those scenarios relate to circumstances in which all the tenants are jointly and severally liable. In a property in which a student lives with their parents, their parents will have the liability for that property, not the student. In those circumstances, the parents would be on the title deeds and they, not the students, would be identified as the tenants.

Mr Gibson: And there would be no apportionment in such an instance.

Kenryck Lloyd Jones: That is correct. The system involves a hierarchy of liability. The council tax operates in a system that begins with owner-occupiers, who are followed by resident tenants—the people who, in effect, are renting the property. They are followed by people who are subletting the property. Within that system, there is no more room to evade liability than in any other. It is quite simple.

Not many students have their parents for flatmates. There is no way in which that situation would arise unless—

Mr Gibson: They could be living at home with their parents who are council tenants.

Kenryck Lloyd Jones: No. The parents will either be owner-occupiers or the resident tenants. The student in such a situation would be neither of those things and would have no liability in that situation anyway. The bill would be for their parents. I am not sure whether my explanation helps anybody.

Colin Campbell: I am a little upset that we are going to such tangential extremes because of the issue of student penury. I cannot get away from the thought that, as Kenny Gibson and Bristow Muldoon suggested, had I been a conspiring parent instead of one who bore most of the burden of putting my children through university, we could probably have organised a joint ownership of the house that we lived in, as they lived with me while attending university.

Kenryck Lloyd Jones: As I pointed out earlier, if you are the owner-occupier, the scheme would not apply.

Colin Campbell: Equally, then, had we gone into a tenanted property—which was not an option that we considered but which was feasible—we could have arranged to have a joint tenancy between the father, the mother and the children.

Kenryck Lloyd Jones: That would be exactly the same as the situation that exists under the council tax benefit system, would it not?

Colin Campbell: I do not know. I am not an expert.

Kenryck Lloyd Jones: If people who are on a low income are treated as independent adults, which they are under the council tax benefit system, exactly the same situation applies. However, I do not think that many people are claiming council tax benefit while living with their parents. We have to decide whether a distinction should be made in relation to students who are living as adults in an equal relationship with their parents. At what point do we say, "That's not

right"?

I must stress that in 99.9 per cent of cases students do not share properties with their parents on an equal basis. In any other circumstances, such people would be covered by the system, so it seems wrong to discriminate when students live with their parents on an equal basis. Having said that, such issues are negligible distractions from the situation that students are suffering from. I do not think that many people will benefit from the scheme that is proposed.

Colin Campbell: I said that I regretted the fact that we had been talking about these issues on the basis of student poverty.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): I was going to ask about the situation of owner-occupiers, but you clarified that at the end of your statement. However, I am concerned that there might be similar anomalies for part-time students. What sort of incentives—or disincentives—would there be in your scheme for those who may either be studying part-time and working part-time or studying part-time and not working?

Kenryck Lloyd Jones: The scheme that we propose is for full-time students, because they are excluded from council tax benefit. Depending on their income, part-time students would receive, or be entitled to claim, the benefit. We are not talking about any definition of students other than that which is used in council tax legislation.

14:30

Mr McMahon: Your scenarios seemed to deal with full-time students, but would it have any bearing on the situation if all the students were part-time?

Kenryck Lloyd Jones: If all were part-time, they would receive income support or jobseeker's allowance, or they would be in employment. They would have wages from employment to pay the council tax bill or they would receive council tax benefit. That scenario would not apply to them.

The Convener: If there are no more questions, I thank the witnesses for their presentation and for coming along today. It has been helpful and has clarified some matters that were raised in the paper.

We welcome Paul Dowsland, who is a money advice worker from Aberdeen citizens advice bureau. The usual procedure is that witnesses speak to the committee for a few minutes, after which we ask questions.

Paul Dowsland (Aberdeen Citizens Advice Bureau): My evidence is more anecdotal than statistical. I start with my personal experience,

which is what brought me to a citizens advice bureau in the first place. I graduated in 1994; that autumn I moved in with my girlfriend and three others who needed people with whom to share a flat. All, including my girlfriend, were students. Before I moved in, I sought advice from an independent youth and student advice centre, because I had heard rumours about the council tax. I was advised wrongly by that centre that there would be no problem.

I moved in and, after a couple of months, the council tax bill arrived. My co-tenants were absolutely furious. We investigated the matter and found that the bill was correct. We each ended up paying £105 that none of us could afford. That is what brought me to the CAB in the first place and I have come across similar cases in the years since then. The first was the case of a woman who moved in with her partner and student friends after she graduated. She believed that students were exempt from payment of council tax and applied for council tax benefit, thinking that there would be no problem. She was horrified to discover that her friends were liable for an £800 council tax bill and was terrified about explaining that to them.

In another case, a couple sought advice before the start of term—he had graduated and she was still a student. They had contacted the council for advice on moving in and had been surprised by what they were told, so they checked the information with the CAB. The council's advice made no sense to them and when we explained to them that their co-tenants would be liable for council tax, they left the office astonished. During the interview they discussed whether they could afford to live together or whether they would have to live apart and where they would live, because they could not move in with the student friends with whom they had agreed to share a house. On at least two other occasions—possibly more—while I have been in Aberdeen, volunteers have asked me to clarify similar cases. They were as surprised as the clients to discover what the current rules are.

I also have some information on the level of student debt, but I will leave that for now. I have covered council tax, on which I was asked to give evidence.

The Convener: In its 1995 report, Citizens Advice Scotland stated that the current legislation on students and council tax

“did not fit well with student life . . . as many young people choose to live together and move in and out of accommodation”

and that

“as students moved in and out of academic life this causes tortuous calculations as well as resentment from the student residents.”

Earlier we heard about the fact that students avoid council tax, if they are liable for it, by moving around. Would you say that that description of student life is still accurate? We heard that students would not move into a flat if they knew that someone in that flat would be liable to pay council tax if they moved in. Is that happening in Aberdeen?

Paul Dowsland: There are cases of people having to reconsider whether they can move in to flats. By presenting the difficulty over council tax to students, we increase student hardship in situations where people have to fill an extra room or face paying extra rent.

Colin Campbell: In your normal line of duty, what percentage of the people who come to you are students? Do they constitute a large proportion of the total? Of the students who come to you, how many seek advice on council tax problems, rather than other problems?

Paul Dowsland: Citizens Advice Scotland's statistics are compiled in such a way as to make it impossible to identify the economic status of clients. Aberdeen citizens advice bureau uses PG debt 6—a computer programme—for debt case management, which is not standard to all CABs. I use that program to identify cases in which a student is the main contact in a complex multiple-debt case that is severe enough to require on-going case management. I cannot use it to identify cases in which the student is the partner of the main contact. Between January and October 2000, we have had 10 instances of students being the main contact in a multiple-debt case, out of a total of 430 cases. That works out at 2.3 per cent.

Colin Campbell: Can you say whether those debt problems are linked to council tax, rather than to other factors?

Paul Dowsland: Other factors would certainly be involved in those cases. We are dealing with multiple debts.

The Convener: Do you have an indication of the number of part-time students who find themselves in such a position?

Paul Dowsland: I am afraid that I do not have any information on that.

The Convener: So, you cannot separate out full-time from part-time students.

Paul Dowsland: No.

Dr Jackson: How do you view the Scottish Executive's proposals? How might they address some of the problems that you have highlighted?

Paul Dowsland: The proposal to amend council tax provisions is good. It would remove a barrier to people moving around and finding extra tenants.

The Convener: Are there any more questions?

Donald Gorrie: In your experience, do many students share accommodation with non-students?

Paul Dowsland: They do not, on the whole, but as I said earlier, there are examples of that.

Donald Gorrie: Is a flat more often purely a student flat or a non-student flat.

Paul Dowsland: On the whole, that is the case. However, students often have non-student friends, who it might be helpful to bring in to a flat to help with the rent.

Donald Gorrie: By and large, do full-time students have worse problems than part-time students, or vice versa?

Paul Dowsland: The debt cases that I have come across have involved full-time students. Full-time students are also having to work—in one case 12 hours a week—to supplement their income. I have also come across two nursing students, one of whom was considering dropping out of nursing because of debt problems, and one who did drop out partly because of debt problems.

Donald Gorrie: Do you think that part-time students do not have a problem, or is it merely that—for whatever reason—they do not bring their problems to the CAB?

Paul Dowsland: I have to speculate about that, but my guess is that part-time students have more flexibility to find work that would help them to overcome financial difficulties. That, however, is merely my opinion.

Mr Gibson: The NUS said that the rented sector is being distorted substantially by this issue. Is that something that you have encountered? Is that a serious disincentive, for example, to landlords who wish to offer accommodation for rent or to people who are employed and who wish to share with students? Are citizens advice bureaux aware that that is a problem?

Paul Dowsland: Do you mean in respect of council tax?

Mr Gibson: Yes.

Paul Dowsland: Yes, it is a serious disincentive to students who want to move in to flats with employed people and, possibly, to people who want to rent out rooms.

The Convener: There are no more questions, Paul. Thank you for coming along.

Comrades, the people from the councils are not here—if Kenny Gibson and Sylvia Jackson stopped talking they would hear me—so I propose that we move on to the rest of the agenda. It would not be appropriate to take a comfort break now,

but if we finish the rest of the agenda and those witnesses are still not here, we will take a break and finish the meeting when they arrive.

Appointment of Reporter

The Convener: The next item is the appointment of a reporter for the forthcoming visit to Northern Ireland. Does any member wish to propose a reporter?

Mr Gibson: I propose the convener, Trish Godman.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): You big sook.

Colin Campbell: I second Mr Gibson's proposal.

The Convener: I do not think that "big sook" is parliamentary language.

Mr Gibson: I was not being a big sook so much as launching a pre-emptive strike—the convener wanted me to be the reporter.

The Convener: I must admit that that is the truth. Are members agreed that I should act as the reporter?

Members indicated agreement.

Public Sector Ombudsman

The Convener: The next item is the consultation on the public sector ombudsman. I suggest that we take evidence from a range of organisations at our meeting on 12 December. We will need to consider our response at the same meeting, but we have done that before, so it should not be a problem. I ask members either to accept the paper or to amend the list of witnesses.

We are inviting the Minister for Finance and Local Government, the commissioner for local administration in Scotland, the Convention of Scottish Local Authorities, the Scottish Consumer Council and Citizens Advice Scotland to give oral evidence. We are also requesting written evidence from the health service commissioner for Scotland, the housing association ombudsman for Scotland and the Scottish parliamentary commissioner for administration. Are members content with those proposals, including the proposal that we will consider our response at the same meeting?

14:45

Members indicated agreement.

The Convener: I remind members that we do not have a meeting next Tuesday because I will be in Northern Ireland and if I am not here, the committee cannot meet.

Mr Gibson: You have changed your tune, convener.

14:47

Meeting adjourned.

15:07

On resuming—

Education (Graduate Endowment and Student Support) (Scotland) Bill: Stage 1

The Convener: Okay comrades, let us restart. We welcome Angela Allen, head of revenues at Glasgow City Council, Mike Peterson, head of revenues at City of Edinburgh Council, Alan Traynor, head of revenues at Fife Council and Brenda Campbell, finance officer for COSLA. I understand that Mike Peterson will make some introductory remarks on behalf of the group.

Mike Peterson (City of Edinburgh Council): Brenda Campbell will give a brief introduction and I will carry on from there.

Brenda Campbell (Convention of Scottish Local Authorities): I thank the committee for giving COSLA and individual local authorities the opportunity to give evidence—it is much appreciated. COSLA, Glasgow City Council and City of Edinburgh Council are making a joint submission today.

COSLA welcomes the proposal in the bill to make students exempt from liability for council tax. We see that as a positive step in council tax billing and collection and we believe that it will reduce the administrative burden on local authorities. COSLA works to promote improved council tax procedures in local authorities and the Executive's proposal would contribute positively to that work.

Mike Peterson will talk about some of the current issues and problems with legislation, and will give some examples. Alan Traynor will go on to discuss the bill, its effects and solutions. Finally, Angela Allen will tie up outstanding issues before we take questions.

Mike Peterson: I will outline the problems that City of Edinburgh Council is experiencing, but similar problems exist throughout Scotland. In areas where there are large student populations, such as the cities, the difficulty of collecting council tax from liable students is causing councils concern and having considerable impact on collection performance.

At present, where a dwelling is occupied entirely by students, there is no collection problem because the property is exempt and all charges are removed. Under current legislation, difficulties arise when students share with non-students because any exemption applies to the property, not to the individuals. When students and non-students share, students are disregarded for the

purposes of the calculation. However, should the non-students not pay, the students are liable under the joint and several liability arrangements and the council must move against them, even though the students might not have the means to pay the council tax bill. If there is even one non-student in the property, the council tax liability will be some 75 per cent of the charge.

One solution would be to exempt students from council tax. The changes that are proposed in the bill would take us down that road, as they would remove students from joint and several liability. There are difficulties, however, and the council is concerned that exempting students should not simply create other collection problems. If students were exempted, the non-students would become completely liable for the portion of the bill that remains. If two students shared a property with a non-student who was an income support claimant, there would be no one with any particular means in the property, but the whole of the water charge would become payable by the person on income support, who would not receive benefit on their water and sewerage charge. That would be a considerable imposition. At the moment, of course, the students would also be liable for that charge. If the non-student's wages were low but above the level that is set by the Department of Social Security for benefit, the non-student would be liable for the whole 75 per cent of the council tax charge on the property. That non-student might be occupying property that is larger than they need, and might be able to live there only because they share bills and rent.

I will pass over to Alan Traynor, who will discuss the proposed solutions to those problems.

Alan Traynor (Fife Council): The two proposals that are contained in the bill deal with the liability of students for council tax, but do not tackle the issues relating to the liability of the non-student.

The first proposed change is to section 75(4) of the Local Government Finance Act 1992; it would mean that students could not be held jointly and severally liable for council tax where they share a property with others. That would solve the initial issue of councils trying to pursue students for council tax for a property. In essence, that debt would fall to be paid by the non-student resident. There are issues regarding the size of the property that that individual might be living in, but we have to submit that there is a council tax benefit scheme, albeit under the jurisdiction of the DSS. That benefit scheme exists to address the issue of ability to pay. We therefore feel that the changes that are being proposed address the main issue: liability of students who are sharing property with others.

15:15

There is another change, to section 77 of the Local Government Finance Act 1992, which addresses the issue of joint and several liability. Under that legislation, a liability may be joint if a property is shared by a husband and wife or by people who are living as husband and wife. The change would mean that, if one person in a couple is a student and the other is not—the circumstances of the non-student, or whether they are working, do not matter—liability would be removed from the student. The council would then be able to pursue only the non-student.

Although we can understand the principle behind that proposal, we fear that it could create a loophole whereby assets could be vested in the name of the student. As we could not pursue the student, we would have difficulty in pursuing the non-student, unless we had other information to hand. That loophole gives us cause for concern. It may not be a major loophole, but it is a loophole none the less, and we submit that it is a point that needs to be considered.

There are some other issues regarding where the legislation leaves us in relation to students; Angela Allen will comment on those aspects.

Angela Allen (Glasgow City Council): Even with the proposed changes that are included in the bill, we thought it appropriate to highlight a scenario in which the student will remain liable for council tax payments. If the property is owned by the student, and he or she shares it with another adult who does not have any ownership status for that property, liability for payment of council tax will remain with the resident owner. We do not propose that there should be any change to that scenario.

The Convener: Have you quantified the number of people or students who would be affected? You have to collect council tax, so I guess you must know how many people you are dealing with—or not dealing with, as the case may be.

Mike Peterson: Knowing the total number of students who are affected is quite difficult. We know the total number of students at university in Edinburgh, for example, but there is no record of those students who stay in the family home, because they are not liable for council tax. To give you some feel for the scale of the situation, there are usually between 6,000 and 7,000 properties in Edinburgh that are completely exempt from council tax because of student occupation. There are many other properties that are partially discounted because students live there, but it is difficult to differentiate between a student discount and a single person discount. We do not have the systems to identify those statistics in detail.

The Convener: Has COSLA collated any

statistics, in Edinburgh or across Scotland?

Brenda Campbell: No, we have not, principally because, having contacted a couple of local authorities, we are aware that they do not have that information.

Alan Traynor: Allow me to illustrate how difficult that task is. As you know, council tax works on the basis that, if there are at least two people in a household, there is no question of any discounts. If we had a household with two non-students and two students in it, that would not affect the liability at present. Under the Data Protection Act 1984, we are not allowed to hold information about those students, because it is not relevant to the charge.

As a result, it is almost impossible for councils to have any idea of the impact of the proposals. We provide to the Scottish Executive details of properties that are currently exempt because of students, but it would be extremely difficult for councils to put a lid on the numbers.

Donald Gorrie: Interestingly, Mike Peterson made some of the points that the National Union of Students made—I am sure that that is a good thing. The NUS had a counter-proposal, which it called an apportioned discount scheme. I wondered whether you had seen that and had any comments. If not, it might be helpful if we gave you that information and you were to comment on it. It seems to be a fairly realistic alternative scheme and—from our point of view—at least worth considering.

Mike Peterson: We have had a quick glance—we only had sight of the scheme at lunch time today. There would be concerns about the whole ethos behind the council tax, which is basically a property tax, being adjusted for people staying in the property. The difficulty with the student proposals, as I understand them, is that the charge would be allocated pro rata within the property. Similar difficulties are already experienced with the council tax. For example, where two or three non-students share a property and one pays their share, we would pursue that person for the shares of the other couple of people who have not paid.

The proposals that have been outlined by the National Union of Students could have major implications for the council tax. We would have concerns about going down that route; the chances are that we would have to enter into a wholesale reassessment of the principle of the council tax and liability for the council tax. We think that in most cases the proposal to exempt students would suffice, subject to issues of non-student liability.

That is a brief view, as we were made aware of the proposals only at lunch time today. The proposals seem to challenge the principle of the

council tax and would have implications for other, non-student, aspects of the tax.

Donald Gorrie: Remind me about the water and sewerage issue that was mentioned. As far as the council tax is concerned, the student is a non-person. Is it correct that students do not pay for water and sewerage either?

Mike Peterson: If the property is occupied entirely by students, it is exempt from the water and sewerage charge. Where students occupy a property with non-students, the students are disregarded. For example, if there were one non-student and one student, the council tax liability would be 75 per cent. The water and sewerage charge would be reduced by 25 per cent as well.

Donald Gorrie: So the discount applies to water and sewerage.

Mike Peterson: That is right.

Donald Gorrie: One of your examples was the case of a person on income support who was sharing with students. Would he pay 75 per cent of the nominal water and sewerage charge?

Mike Peterson: Yes. In a scenario with two students and someone on income support, the non-student would be entitled to council tax benefit, so the only charge would be the remaining water and sewerage charge. If a 25 per cent discount applied to that, the charge would be only 75 per cent. At the moment, all three—the students and the income support claimant—would be jointly and severally liable for that charge. Under the proposed arrangements, the income support person would be entirely liable. In attempting to resolve the student problem, the council is concerned whether there will be any knock-on effect on others, in relation to poverty.

Mr Gibson: I am concerned about some of the information that you have given us, such as the fact that it is impossible—for data protection and other reasons—to gauge the impact on local authorities of the Executive's proposals. In considering something like this, it is always difficult to come to the right solution if one does not know whether the proposals will have a positive, negative or indeed neutral effect on revenue.

Given that student numbers are disproportionate in Edinburgh and Glasgow compared to more rural authorities, do you envisage a shortfall in revenue for some local authorities if the Executive's proposals become law? If so, how do you think that such a shortfall should be met?

Mike Peterson: The proposal relates only to students who occupy with non-students. There would be no change in the arrangements for properties that are entirely occupied by students.

Mr Gibson: I accept that.

Mike Peterson: The impact on local authority finance depends on how successful the local authority will be in extracting the money from the non-students. No change is proposed to the charge; the change is to who is liable for paying it. The issue is how successful councils are at the moment in extracting money from the student part of the property; the proposal should have little impact on councils if all the money comes from non-students, who will have the liability in future.

The concern is now about the recourse that can be taken in relation to the non-student; if the student is not paying their contribution, as they would for utility bills or rent, the council currently has the legal right to go against the student. The proposal means that in future the council could not do that, as no liability is attached to the student.

However, the proposal will have little effect on local authority finance. I do not believe that students are not paying the liability. In most areas, they are contributing, as they do to rent. The proposal would not change that. The main benefit of the proposal is that councils would not be forced to go against a student where there was no alternative.

Mr Gibson: I understand that. That is why I said initially that the proposal could be positive, negative or fiscally neutral. Brenda Campbell said that, under Scottish Executive proposals, there could be significant improvements in the collection process. Is that because there are considerable difficulties in obtaining money in these circumstances at the moment? Do you have an idea of how many students pay the council tax that they are supposed to pay through joint several liability? Is it rare?

Mike Peterson: It is difficult to know because, although names appear on the bill to show who is liable, one cannot tell who makes the payment into the account. Council tax is a property-based charge, so one bill goes out to one property. If two or three liable persons in that property make payments, all the payments go into one account. If there were three liable people in a property and one did not pay, we do not send out two reminders. The recovery is for the account for that property, so we cannot trace the source of a payment coming into an account from several liable people.

Colin Campbell: The gist of that response answered the question that I was going to ask.

The Convener: What is the liability of part-time students for council tax? Do councils interpret the regulations in the same way? That is probably a question for Brenda Campbell.

Brenda Campbell: I will rely on one of my colleagues to answer that question.

Angela Allen: When we interpret whether someone is liable, non-labile or qualifies for exemption as a student, the regulations stipulate how many hours of study their course requires and how many hours they do each day and each week. The majority of students in Glasgow, for example, study full time.

Alan Traynor: The definition of students is contained in the legislation and is precise. It is up to councils to interpret that legislation. There is an appeals process. We expect authorities to implement the legislation similarly. The same legislation exists for all and allows for little discretion, as it is precise.

The Convener: Can you outline the administrative changes that an individual authority will have to make in order to implement the proposed changes? Will that cause you administrative problems? Will the changes be difficult, or will you be able to fit them into the system?

Mike Peterson: We do not see the change as a major difficulty in terms of our software solutions; it would just be a question of who we were going to pursue. The students would still be recorded if appropriate because of the fact that they were being disregarded. The information would still be there and the system would have to change only in so far as it would be the non-students who got the final notice and went on to the summary warrant, whereas at the moment all liable people go on to the summary warrant. We would not envisage a significant software solution to implement the proposed changes.

The Convener: Given what you have said, I take it that the set-up does not inform you whether the person on a summary warrant is a student. Is there a difference between students and other people who do not pay their council tax?

15:30

Mike Peterson: Liable people go to summary warrant where the account for the property has not been paid. That would happen whatever the mix of people. The people could be on income support, they could be working people or they could be extremely well off—we cannot tell from the information that we have. All we know is that there are liable people. Liable people progress to summary warrant and they all get a final notice. If the students were no longer liable, they would not go to summary warrant.

The Convener: There seem to be no more questions, so I thank our witnesses.

Comrades, we welcome Frank Duffy and Ian Duncan from the Scottish Executive council tax policy branch, Ainslie McLaughlin, who is head of

Scottish Executive local government division 3, and Gillian Thompson, who is head of Scottish Executive student support policy. We will follow the usual procedure. If you wish, you may make some opening remarks, after which I will open up the meeting to questions.

Ainslie McLaughlin (Scottish Executive Development Department): We are pleased to have the opportunity to appear before the committee today. I have only a few brief introductory remarks to make. The Education (Graduate Endowment and Student Support) (Scotland) Bill provides a useful opportunity to remove what we see as a long-standing anomaly, which can result in students becoming liable for council tax.

Under the current system, students in rented accommodation are disregarded for the purposes of determining council tax, but where they share premises with a non-student they become jointly and severally liable for that council tax. The Executive considers that position to be unfair. Successive Governments have also considered that to be the case and have felt that the anomaly should be removed at the first appropriate legislative opportunity. In recent years, no suitable legislative vehicle has become available at UK level. That remains the case for England. However, the Education (Graduate Endowment and Student Support) (Scotland) Bill gives us an opportunity to make the necessary changes and to remove the anomaly in Scotland.

The proposal was made during the consultation on the Cubie proposals and during the consultation on the bill. No comments were received in either case. We have provided the committee with some before and after examples, which illustrate how the changes will impact on students and non-students.

Bristow Muldoon: There seems to be a broad consensus among members of the committee that the Executive's proposal to deal with this anomaly is welcome.

In the evidence that we have received so far, the National Union of Students has raised concern about particular types of cases that the proposal might affect. The NUS has brought to our attention cases in which property is shared by one non-student and several students. At present, all those adults are jointly and severally liable for council tax but, under this proposal, one person would become jointly and severally liable. That person might have an income that was not very high but sufficient for them not to gain from council tax benefit. They might be living in a far bigger property than they might be judged to need. Has the Executive given any thought to ways in which that anomaly could be addressed?

Ainslie McLaughlin: We consider that in such a case the position of the non-student would be no different from that of any other council tax payer who was not a student. The non-student would be entitled to the same benefits as any other council tax payer. They would not be disadvantaged in comparison with any other council tax payer.

Mr McMahon: When the NUS was giving evidence, we spoke about owner-occupiers and part-time students. What would be their status under the proposed changes?

Frank Duffy (Scottish Executive Council Tax Policy Branch): I am not sure what you mean by the effect of the changes on owner-occupiers. If they have another non-student tenant, liability rests with the owner-occupier, regardless of whether they are a student, because it is assumed that they would be receiving rent from the non-student tenant to cover part of the liability.

As COSLA has made clear, the legislation is specific about part-time students. The proposal is not targeted at full-time students as such, but at students as defined by the legislation. The definition of "student" has two or three variables, but it can be summed up as a person who has more than 21 hours study time a week for at least 24 weeks per annum.

Dr Jackson: I assume that you are aware of the NUS's proposal for a discount scheme. Why do you think that that might not work?

Frank Duffy: As Mike Peterson said earlier, we first saw the scheme last night. My first impression is that it would be extremely difficult to operate. The example given by the NUS involved a council tax bill of £1,500 on a property in which four students and one non-student were resident. The suggestion was that £300 should be apportioned to each person, discounting the students so that the non-student was left with a council tax bill of £300. It would not be a property-related charge. That would be extremely difficult to administer. One can imagine that if one student left, the non-student might then be charged £375. If a second student left, the non-student would be charged £500. If a new student moved in, the rate would go back down.

Such a scheme would be difficult for councils to administer. However, they are the experts and would be better qualified to discuss that. I am not convinced that the proposal would not create an incentive for a tenant not to take any non-student co-tenants. There seems to be a tremendous incentive to ensure that the only people with whom tenants cohabit are students, to lower their liability—the more, the merrier.

As I said, those are only initial impressions. We saw the proposal only last night.

Donald Gorrie: I welcome the fact that the Executive is tackling the issue. As a long-standing Edinburgh councillor, I know that the matter has long been a sore point. I would like to press you on the point that Bristow Muldoon raised. In example 2, which the Executive provided, three students and one non-student share a property, and the non-student earns slightly more than the level that qualifies for benefits. The non-student must pay £985, which is a whacking bill. It might be difficult or impossible to do anything about that, but by being fair to students—which is a good thing—you are being pretty tough on non-students living with students. Is there no ingenious way of reducing the impact of that?

Ainslie McLaughlin: On the face of it, we expect people sharing flats or premises to make their own arrangements for apportioning rent and council tax. We are trying to remove the anomaly that leaves students with the liability, especially as they are disregarded in the initial calculation. As I said, we feel that that leaves the non-student in no different a position from that of any other non-student council tax payer. If that person were hard pushed financially, council tax benefit, income support and other assistance would be available to them.

Donald Gorrie: So the lesson is not to live with students.

The Convener: And not to be low paid.

Mr Gibson: The Executive and the NUS have both made proposals. One would discourage people from sharing with students, and the other would encourage people to rent only to students. As Donald Gorrie suggested, I hope that we can find a happy medium.

My concern arises from what the COSLA representatives said. They hinted that they had a slight concern about a possible loophole involving the transfer of assets into the names of students to reduce liability. Given that you were present when the representatives from COSLA were here, will you comment on that?

Frank Duffy: We would have to consider any case as it arose. We mentioned that a resident owner who was a student would become liable on sharing a property with a non-student. My reaction to hearing about that loophole was that it would fall into the same category, and so would not be a loophole.

Mr Gibson: So, you do not believe that such a situation is relevant or is likely to come up much?

Frank Duffy: I might be missing something, but I do not think so.

Mr Paterson: I would like to quantify the issue for my own sake. Under the present system, a non-student who shares with a student must pay X

factor. Under the new system, the non-student would pay Y factor—in other words, the amount would increase, which would impact on the non-student. Are the difficult circumstances about which you talked the ones that we are creating now by increasing the liability on one individual? We must ensure that we do not create such difficult circumstances.

Frank Duffy: The total charge on the property is unchanged. In the example that you just gave, liability is simply being shifted in a particular direction. As Ainslie McLaughlin said, that does not necessarily change the payment arrangements in the property. The key point is that the student will not leave university or other study with a debt hanging over them for which they will be pursued.

Mr Paterson: However, they might be pursued by the tenant at the time when they are trying to fix up accommodation to secure the very money that we are saying they should not be paying in the first place. Someone who may need that money—who may be on the threshold—might need to pursue the student to gain that money from them in another way. Before a student can get the accommodation, they might need to come and pay their council tax to the person in residence. Is that not correct? Is that what you are suggesting?

Frank Duffy: To be honest, I am not sure what you are saying.

Mr Paterson: You were alluding to the idea that there might be a private arrangement. In other words, that burden on a second person might be shifted back on to the student, under a private arrangement.

15:45

Frank Duffy: Any private arrangements are up to the individuals involved. For example, one person would have their name on the electricity bill, but all the residents would probably contribute to the bill.

Mr Paterson: I am suggesting that, today, a student pays a certain amount and a second person pays another figure. However, if we change the legislation, by next week, the second person will have double the liability.

Frank Duffy: Yes. The second person would be totally liable for the whole year.

Dr Sylvia Jackson: You seem to be indicating that, although the bill includes a section on council tax, there could be private arrangements whereby you would be asking the students for the same contribution that you might have been getting previously. Is that correct?

Ainslie McLaughlin: No. We are not asking students privately for a contribution. We are simply

speculating on what we think will actually happen in the rental market. People who share flats probably share all the costs, from electricity bills to rent to council tax.

Dr Jackson: I put it to you that if that is the case, the bill does not make much progress. We are simply back to square one.

Ainslie McLaughlin: We are removing the likelihood of students leaving tuition with a debt hanging over them for which they could be pursued by the council.

The Convener: You will appreciate that we are focusing on section 3 of the bill. However, could you give us an overview of the reasons why the bill is being redrafted and could you confirm that section 3 will not be affected by that redrafting?

Gillian Thompson (Scottish Executive Enterprise and Lifelong Learning Department): On 1 November, ministers signalled their intention to submit a revised draft of the bill, which would take account of several things. However, the key principles of the bill will not change and the section dealing with council tax is completely unaffected.

The Convener: Thank you.

The committee will consider its draft report on the bill at our meeting on 12 December. Members could inform Eugene Windsor of any matters that they wish to be included—I do not want to go into that now because today's meeting has been long enough—or they could allow Eugene and me to bring a draft report to the committee on 12 December.

Mr Stone: I prefer the latter.

The Convener: If members have any particular points, they should raise them with me or Eugene and we will include them in the draft report. Are we agreed?

Members indicated agreement.

The Convener: I thank members for the attention that they paid at today's meeting.

Meeting closed at 15:50.

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