

LOCAL GOVERNMENT COMMITTEE

Tuesday 23 October 2001
(*Afternoon*)

Session 1

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LOCAL GOVERNMENT COMMITTEE

26th Meeting 2001, Session 1

CONVENER

*Trish Godman (West Renfrewshire) (Lab)

DEPUTY CONVENER

*Dr Sylvia Jackson (Stirling) (Lab)

COMMITTEE MEMBERS

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

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

*Tricia Marwick (Mid Scotland and Fife) (SNP)

*Iain Smith (North-East Fife) (LD)

*Ms Sandra White (Glasgow) (SNP)

*attended

WITNESSES

Neil Beattie (Ayr, Prestwick and Troon Local Health Care Co-operative)

Keir Bloomer (Clackmannanshire Council)

Keith Brown (Clackmannanshire Council)

Alan Campbell (Aberdeenshire Council)

George Harper (Perth and Kinross Council)

Elaine Jones (Perth and Kinross Council)

Joyce Lewis (Perth and Kinross Council)

Elaine Noad (South Ayrshire Council)

Peter Peacock (Deputy Minister for Finance and Local Government)

David Sherlock (South Ayrshire Council)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Neil Stewart

LOCATION

Committee Room 2

Scottish Parliament

Local Government Committee

Tuesday 23 October 2001

(Afternoon)

[THE CONVENER *opened the meeting at 14:00*]

The Convener (Trish Godman): Comrades, I was going to say that, as we are three women, we can get going. However, Michael McMahon has now joined us, so he has taken away my line. That is not to say that we are not glad to have you here, Michael. We have a long meeting ahead of us.

Item in Private

The Convener: I ask the committee to agree to take item 6 in private. We will be considering the terms of reference and the remit for an adviser. As the adviser will help the committee to scrutinise Executive policy proposals, we would not wish to show our hand to the Executive at this stage. Do members agree to take the item in private?

Members *indicated agreement.*

Community Care and Health (Scotland) Bill: Stage 1

The Convener: The next item on the agenda is the committee's deliberations on the Community Care and Health (Scotland) Bill. Although we have been named as the secondary committee at stage 1, our report will be added to the lead committee's report. At stage 1, we simply consider the bill's general principles. After the committees' reports are complete, the matter is taken to Parliament, which agrees—or otherwise—to proceed on the basis of those principles. We then move on to stage 2.

This afternoon, we will hear evidence from two councils, the first of which is Perth and Kinross Council. I welcome its representatives to Edinburgh and to the Local Government Committee. Joyce Lewis is the head of social work services; George Harper is the legal manager; and Elaine Jones is the head of finance in the care together group. I believe that Joyce Lewis will make a few opening remarks. If anyone wants to add to her comments, they should feel free to signal to me. On a technical matter, I should point out to our witnesses that they do not need to switch microphones on and off; we are all automatised—or whatever the word is.

Joyce Lewis (Perth and Kinross Council): I thank the committee for inviting us to attend today's meeting. I introduce my colleagues George Harper and Elaine Jones, who have been seconded to the care together project.

I have asked the clerk to distribute information about the project to the committee. However, I thought that committee members might be interested in hearing a bit more about it now. Care together is very much about the integration of health and social care services in Perth and Kinross; we are about to enter a two-year pilot period to test out the integrated model.

The project involves not only older people's services, but all community care client groups. When I refer to health and social care, I mean the elderly and mental health directorates within the primary care trust, the local health care co-operatives and the medicine for the elderly services within the acute trust joining in with all current social work community care services. The current organisational framework for care together has been agreed by the project's board, and interviews for all the new posts will take place in November.

My colleagues and I do not want to take up too much of the committee's time, which is why we are not doing a presentation. However, we are happy to answer questions or debate the bill.

Our submission does not make the point that there cannot be free personal care without national eligibility criteria. When the Convention of Scottish Local Authorities carries out its work on charging, it may address the issue of eligibility criteria. We believe that we will get away from the postcode lottery of service delivery only with eligibility criteria and that eligibility criteria go hand in hand with free nursing and personal care.

The Convener: I want to ask about national charging, which links in with what you said. The bill will enable Scottish ministers to issue regulations providing for a national charging scheme. Is a national charging scheme feasible? If it is, would there be significant differences between Glasgow and Perth, for example? Many more people in Glasgow would seek residential care and I am not clear how a scheme would be worked out. Could a scheme be worked out so that there are no differences?

Joyce Lewis: I believe that there must be a national charging scheme. There are great inequalities in Scotland because of the lack of a co-ordinated approach to charging.

George Harper (Perth and Kinross Council): It is difficult to believe that a national charging policy would create difficulties. Indeed, it would solve many difficulties, as currently there is no agreed way of charging for community care services. Some authorities charge fairly high amounts for services but some charge little or nothing. We must get away from a postcode lottery whereby people in one authority pay for a service but those in another do not.

Joyce Lewis said that the issue must be addressed on two fronts. Unless there are national eligibility criteria, we will not get away from the postcode lottery. If there are no agreed national eligibility criteria, one authority might decide that a service is a community care service whereas another authority might decide that it is not.

Elaine Jones (Perth and Kinross Council): I cannot speak on behalf of a large local authority such as Glasgow City Council. Perth and Kinross Council has only around 1,400 clients who receive care in the community. Non-residential care income is around £900,000 per year. We are small compared with other local authorities and national charging is not as great an issue for us. However, if any changes greatly impact on councils and reduce their income, the best approach would probably be a phased introduction of the changes over three or four years.

The Convener: That is what I meant. The approach must be considered and cannot be sudden.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): The bill provides adult carers and

carers of children with disabilities with an independent right to request their own assessment for services, irrespective of whether the person they care for is being assessed. Do the bill's provisions adequately legislate for carers?

Joyce Lewis: Yes, the bill adequately represents and provides for carers. Carers currently have the right to an assessment when we assess the needs of the individual for whom they care. Under the bill, a carer will be able to ask for an assessment in their own right, which is proper. My only concern is what effect that might have on the carers, because the man in the street assumes, I think, that if he is given an assessment a service will follow, which might not necessarily be the case. I am a little concerned that we might be making carers think that they are going to get a whole raft of services when they might not be.

Mr McMahon: Has your authority done an assessment of that type of practical consideration? Have you done preparatory work on the implications of meeting the requirement of the new proposals to assess carers for those services?

Joyce Lewis: Our only preparation is in being aware that the bill will obviously impact on our assessment and care management staffing ratios. For those who are not aware, I should explain that Perth and Kinross has a particularly high level of carers who care for vulnerable old and disabled people. The impact will be on the number of staff available, as they will have to carry out more assessments than are done at present. We are aware of that, but that is as far as we have taken the issue.

George Harper: Perth and Kinross is already addressing the issue of eligibility criteria. We are putting together a system of banding that assigns individuals to particular categories according to the extent of the difficulties that they encounter in carrying out everyday tasks and the response that is needed for those difficulties. We will be introducing eligibility criteria, probably from April next year, which will help us to address the issue that Michael McMahon raises.

Mr McMahon: This question might be a bit unfair, then. Are you aware of other authorities doing similar work?

George Harper: I am certainly aware of work happening in England, but I am not aware that such work is being undertaken in Scotland. Each authority in Scotland has eligibility criteria, but in general terms only. Perth and Kinross is trying to put together a banding system, consisting of perhaps four to six bands, that will allow social workers to determine whether someone qualifies for a service. It would also allow the patients, carers and users to identify with some ease whether they are likely to qualify. For instance,

when a carer asks for an assessment, information will, I hope, have been provided to them beforehand indicating the likelihood of their qualifying, under the eligibility criteria, for a community care service.

Dr Sylvia Jackson (Stirling) (Lab): On direct payments, you mention at the beginning of your written submission that you are in favour of promoting choice and flexibility for the service user. However, in the next paragraph, you say that you have great concerns about the uptake of direct payments and the effect that the uptake might have on the work force and on the ability successfully to undertake work force planning. Will you say a little more about that? Will you also say something about monitoring what might happen? If there is more flexibility and choice, it might be difficult to keep a handle on what is happening on the ground.

Joyce Lewis: I will answer part of that, after which I will hand over to Elaine Jones.

One of the local authority's concerns in working with our health care colleagues is that, under a direct payment scheme, we must ensure that there is not only robust assessment and an on-going review process, but a clear monitoring process that ensures that individuals are getting the quality services that they continue to require. We know that people's needs might change, so we must constantly monitor services, asking, "Well, does Mrs So-and-so or Mr So-and-so still require that level of service?" That will ensure that best value and quality are continually addressed and that changing needs are met. We should not underestimate the number of administrative processes and the amount of professional reviewing and monitoring that will be part of that exercise.

I do not know the position in other Scottish local authorities, but I think that there is sometimes an assumption that an awful lot of voluntary and independent sector providers are out there just waiting to take on the mantle of providing services. In Perth and Kinross, we do not have a lot of opportunity for that. We will have to encourage potential service providers. We have a fairly healthy voluntary market and a sector within the independent sector is working with us. However, that will not be enough if the demand for direct payments is significant. We have business to do in encouraging service provision from those sectors.

14:15

Elaine Jones: The point that we are trying to make relates to cost structure in the council. In adult care, 50 per cent of our revenue budget is tied into staff costs. In the worst-case scenario, all our home care clients would decide that they

wanted to take direct payments. As well as considering how we would administer that, we would still be paying our work force at the same time as making direct payments. That could be a double whammy. If the clients decided to take their direct payments and buy services from the voluntary or private sector, the third whammy would be that we would not recover any income. That is the worst-case scenario.

We thought that we ought to flag that up. If direct payments prove to be popular and the uptake is rapid, councils might find themselves under considerable pressure. Our no-redundancies policy might have to be reviewed in the light of that.

The Convener: Before I call Iain Smith, I will ask about monitoring, which relates to Sylvia Jackson's question. Who employs the carer? Is it the local authority or the person who is receiving the service?

Joyce Lewis: Are you asking who will employ the carer if the direct payments scheme is expanded?

The Convener: Yes.

Joyce Lewis: That is another issue for us. My understanding is that, once someone's needs have been assessed and it has been agreed that they require services, they have a choice. Either they can buy those services from the social work services' existing provision or we can give them money to buy the services elsewhere.

My concern is that the vast majority of carers have enough on their plates caring without having to be almost an employer of the people who provide services for them. I am concerned that we might have to set up something that is not necessarily part of social work services, but is almost like an employment agency to support carers by managing the buying of services for them. We will have to address that issue.

The Convener: How would that link in with the form of independent living that we have at the moment, whereby someone can buy in a service and a voluntary organisation will deal with the payroll? Could that be linked in or do you see it as separate?

Joyce Lewis: It could be linked in. My concern is that, depending on the uptake of direct payments, voluntary organisations in Perth and Kinross may not be able to take on the extra work.

The Convener: Do you think that provision of monitoring should be included in the bill?

Joyce Lewis: Yes.

Ms Sandra White (Glasgow) (SNP): May I ask a question?

The Convener: I will take Iain Smith's question and then come back to you.

Iain Smith (North-East Fife) (LD): My question is about joint working arrangements under the bill. There are three parts to the question. The first is whether you think that the bill addresses adequately the financial barriers to joint working.

Secondly, you mention in your submission a problem with the disadvantageous position on VAT if the budgets are held within the health service rather than within local authorities. Will you expand on that so that those of us who are not intelligent can understand what you mean by it?

Thirdly, your local authority will work with a health board that deals with two other local authorities. Do you envisage any problems in working with that health board when it has to deal with other local authorities, particularly as one authority is larger than the others and could have a greater influence on the health board's thinking than the smaller authorities?

Joyce Lewis: I will ask Elaine Jones to answer your first two questions.

Elaine Jones: Under the Value Added Tax Act 1994, local authorities have what we call section 33 status, which means that, in the ordinary course of providing services, we can recover the VAT that we pay when we buy in supplies, such as pencils and stationery.

Under the 1994 act, the health service is deemed to be a Government department, which, except in specific areas, cannot recover VAT. Health boards and trusts are automatically funded for that. The legislation will enable us genuinely to pool budgets, which we have not yet been able to do. That means taking resources from, say, the local authority, which is smaller—it has a smaller work force, for example—and hosting them within the financial system of the national health service. It makes sense to do that because of economies of scale in financial processing. However, when we do that, we have to accept that we will have to work with the VAT regime of the host. We would have to move from a favourable VAT regime under section 33 into—to us—an unfavourable VAT regime as the equivalent of being part of the NHS.

The cost to Perth and Kinross of losing section 33 status for our supplies and services would be £250,000 to £300,000 a year. If we put that into staff figures, it represents approximately 10 average D grade nurses or two nurses for each of our localities, year on year. The amount of money may not seem large, but we would be disadvantaged. That remains the one barrier to pooling budgets.

You asked whether the bill will promote joint working—the answer is yes. Everything that we

have been saying to the Executive over the past couple of years has been addressed in the bill.

Joyce Lewis: You asked about the relationship between the health boards and the local authorities, some of which are smaller than others. For those members who are not aware, Tayside Health Board takes in Angus, Dundee and Perth and Kinross. Perth and Kinross Council is very much at the forefront in Tayside—and perhaps in Scotland—in integrating health and social work services. Angus Council is also doing that, but in a different way. It has integrated its mental health services and some services for older people. Health is responsible for mental health services and social work is responsible for older people's services. Tayside has already started to integrate its services differently from previously. That will help to arrange fair share—if we want to talk about it in that way.

Our concern—like that, I am sure, of other local authorities—is that we have to ensure, as the smaller local authority, that our needs are well known and that we get the share of the moneys that we should be getting. I am sure that you are all aware that Tayside Health Board has had its difficulties. That has created delays in some negotiations that are under way. However, the Perth and Kinross equivalent of what the health board currently spends should be coming into the pot for the budget for care together. It will be the responsibility of the general manager in care together to manage that.

The Convener: If there is a dispute, how is it resolved?

George Harper: The care together board oversees the integrated model. If a dispute were to arise, the board would resolve it. A dispute has not occurred up to now, but there is a facility within the care together model in Perth and Kinross for disputes to be resolved. We also have a range of understandings through heads of agreement, financial regulations and standing orders, which would facilitate resolution of any disputes.

Joyce Lewis: The representation on the care together board is drawn from what was Tayside Health Board and Tayside Primary Care NHS Trust and includes elected members from the local authorities. We hope to cover all interests. If there is a dispute, whether on the health side or the local authority side, those interests are all represented in that decision-making forum.

The Convener: Sandra, do you want to ask your question now?

Ms White: Not at the moment. I might come in later.

Tricia Marwick (Mid Scotland and Fife) (SNP): Before I ask my question, I will take the witnesses

back to joint working, especially with Tayside Health Board. You are saying that in the future the three local authorities might all have their own joint working arrangements with the health board, so that the health board will have different arrangements with each local authority.

Joyce Lewis: That applies not just to the arrangements with a local authority; the health sector and local authority in each of the local authority patches will also be involved. It is not just about having an agreement with each of the local authorities; it includes all our health colleagues. That is different from the current situation.

We have come to the realisation in discussion with ministers—this was touched on in relation to charging—that what works in Perth and Kinross might not work in Glasgow and what works in Angus might not work in Dundee. There must be flexibility so that there are horses for courses. Different models will be required across Scotland. There must be different models; we would not be able to have uniformity. It will be incumbent on the boards to have flexible partnership arrangements with local authorities and their health partners.

Tricia Marwick: On the definition of personal care, the bill gives Scottish ministers powers to define by regulation social care for the purposes of separating the personal care element from the housing and living costs of residential care packages. Is there an argument that a definition of personal care is required in the bill, as opposed to within the regulations?

Joyce Lewis: Yes. A definition should be in the bill.

George Harper: The bill is an enabling piece of legislation. All the detail will emerge through regulations, conditions and guidance. There is an argument for defining personal care in the bill, but there is also a strong argument for including a lot of the other detail in it. The bill is little different from many other bills that are being introduced; it is an enabling bill. It does not include much detail; the detail comes through secondary legislation, regulations, conditions and guidance.

Tricia Marwick: I understand the purpose of having regulations. The point that I am making is that, as the definition of personal care is so important, there is an argument that the definition should be in the bill, which would give us the opportunity to amend it, rather than giving ministers the power to come forward with regulations in the future. Would it not be to your advantage for the bill to contain a definition of personal care?

Joyce Lewis: As head of social work services, I think that the definition needs to be in the bill. It must be clear so that we have balance and the equality of services that I mentioned.

The Convener: A definition in the bill would also clarify your national eligibility assessment.

Joyce Lewis: Absolutely. That is crucial.

Tricia Marwick: I have one more point before we move on. Your submission states:

“The capital disregard of £18,500 differs from the Benefits Agency’s capital threshold for income support.”

That would necessitate two financial assessments per client within six weeks. Do you see any way round that? Can you make suggestions to limit that? Do you think there is any way that the bill can tighten that up so as not to put clients under even more pressure than they are already under?

14:30

Elaine Jones: We were discussing that this morning. We can understand why the threshold should be raised but, at the moment, there is still a £2,500 gap. The Benefits Agency capital disregard threshold for income support kicks in at £16,000. There is no way round that. As long as there are two different levels, there must be two financial assessments. Not only will we have to have two financial assessments, but we will have to keep monitoring clients to see whether they fall below the thresholds. That places an additional administrative burden on the client but, as long as there are two different sets of criteria, nothing can be done. It would be easier if everything was pegged at the same level.

Ms White: I will pick up on the point about joint working and then go on to the funding of the proposals.

Your submission mentions joint working among the health board, the local authority and social services and the fact that resourcing will all go into one pot. Would you like that pot to get bigger or would you like to have more say about what goes into the pot, for example in relation to the selling-off of hospital sites? If a site is sold off, the money goes to the health board and not necessarily to the council or to the social work department. Would you like to see more of that money being used for care in the community and to alleviate some of the burden on local authorities and social work departments?

Joyce Lewis: Absolutely. Clearly, members are aware of the rebalancing of care and, where possible, the move away from institutional forms of care. People will only go into hospital to become well again and will get the care that they need in their own homes. Increasingly, we provide services for a frailer public, which will no longer necessarily receive extensive hospital or institutional care or services. The fact that those frail people live in our communities makes it more important that we benefit from any capital resulting

from a sale. The capital should be reinvested in the care and well-being of the public.

Ms White: Thank you. I wanted that point to be clarified. I know that other authorities have raised the issue with other members as well as with me.

I will go on to the funding of the proposals. You will have read the care development group's report and will know about the £43 million gap. Does the council support the care development group's recommendation that all funding for older people's services should be the subject of a clear outcome agreement? Such services will obviously be closely monitored. It may not be within your remit to answer this, but there is a question about the recommendations with regard to, for example, attendance allowance not being paid. I know that that is a Westminster issue but it impinges on councils' budgets. If there is a shortfall, how do you envisage being able to make it up? Do you imagine that the Executive would make up any shortfall and that the money would be ring-fenced?

The Convener: I should make it clear that funding is a matter for the Scottish Executive, not for the witnesses. I am anxious about asking the witnesses to answer a question that is not relevant to them. The £20 million will or will not be found by the Executive, but the Executive will fund the proposals. I rule the question on the £20 million out of order. It is not for the witnesses to answer. It is a question for the Executive and we can take it up later. I ask the witnesses to answer the other parts of Sandra White's question.

Ms White: I retract that part of the question. We will have the deputy minister along to the committee, so I will ask him that question, if I may.

If there is a shortfall, and it is made up, would you like the money to be ring-fenced? Is that in order, convener?

The Convener: Yes. That is fine.

Joyce Lewis: Elaine Jones will probably say no because she is an accountant but I, being a social worker, say yes, so that the money would be used for the purposes for which it should be used.

Elaine Jones: We are split on the matter. Joyce Lewis would like the money to be ring-fenced. I will stick with the view of the Convention of Scottish Local Authorities and say no. I do not perceive a necessity for ring fencing.

Joyce Lewis: Ms White asked about the local outcome agreements. The work that we have been doing in care together is partly about not what we put in, but what comes out the other side and about being able to evidence improvements in services. I know that in Perth and Kinross a local outcome agreement on daily discharges is in place with Tayside Health Board. We are also moving to a local outcome agreement for all older people's

services as per the regulations.

We intended to do that anyway. We want to be able to achieve a local outcome agreement in each of the geographical localities. The agreement will cut across all community care groups. Which services people in local areas—not only health and social work professionals, but other organisations and, in particular, users, carers and patients—think they should have for their community will be recorded clearly in the agreement. Pinned to the agreements will be money if the service providers achieve the agreed levels of service.

We very much embrace the principle of local outcome agreements. That principle is about making local outcome agreements more than the community care plan that we currently have in social work. With all due respect, as George Harper said, you would need to have a wet towel round your head to read most community care plans. What sense do they make to Joe Public? Let us not make the same mistakes with local outcome agreements. Let us write them in plain English. Let us make them straightforward. Let us have everybody signed up to them so that everybody knows what they are about.

Dr Jackson: I have a short question about the second bullet point in the section of your submission that deals with accommodation. Will you take me through how clients might be

"charged different levels of top-up in the same home"?

Joyce Lewis: Independent sector providers recently gave a presentation to council members. We were all aware of the problem. We have a good relationship with our providers in Perth and Kinross. I like to think that we do not just sit down to discuss fees, but that we sit down to discuss strategies, planning and partnership arrangements.

We talk about third-party top-ups. At present, the social work department might say that it would pay a certain amount for the care of an individual in a particular environment, but the provider may want more money. The provider can and does ask for the top-up to be paid by individuals or by their family members. To be frank, I do not think that service providers feel comfortable with that; it is difficult for them. Our concern is that there is the potential that somebody in a 40-bed residential unit or nursing home, for example, might pay a certain amount for a service for which somebody else pays £50 more.

We have to be mindful of the position into which we put not only families and individuals who receive care, but the care providers. The situation is not adequate from anybody's point of view.

Dr Jackson: Earlier, we talked about

monitoring. Where in the system should monitoring take place to ensure that great discrepancies of the type that you mentioned do not arise?

Joyce Lewis: The Regulation of Care (Scotland) Act 2001 is relevant in that regard. As well as monitoring direct payments for services to people in the community, there has to be a robust monitoring mechanism. It is important that the regulation of care is properly monitored and managed.

The Convener: I understand that if a person who lives in Perth wishes to go into a residential home outwith your area, the council conducts an assessment and pays, in part because of the Social Work (Scotland) Act 1968, which talks about where people ordinarily reside, and in part because of the Community Care Act 1990. The Community Care and Health (Scotland) Bill is designed to ensure that clients have as much choice as possible. It is all right for someone who lives in Perth to go to a home in Aberdeen, but what if they want to live in another European Union country? Would your position be exactly the same or would it be different? The bill and the regulations are not specific about where people can and cannot go, but it is good on the issue of choice. I might choose to live in the south of Spain.

Joyce Lewis: So might I. I do not know whether I will be able to answer your question. Our concern is that Perth and Kinross is an attractive retirement community—a vast number of people from the rest of the UK and from other European countries who have never lived in the area go there to retire. We are concerned that that trend might increase if people from the rest of the UK think that they will be able to access free personal care that they would not be entitled to south of the border.

I might be speaking out of turn, but my view is that, if a person's daughter lives in Spain and there is a care home down the road from where she lives, we should support the person staying in that home. There would be issues around monitoring that sort of arrangement. People would have to monitor the standard of care on our behalf.

The Convener: Thank you for coming. That was interesting.

We will now move on to evidence from South Ayrshire Council. I welcome Elaine Noad, director of social work, housing and health—a rather larger remit than normal—David Sherlock, planning development manager, and Neil Beattie, chair of a local health care co-operative in the Ayrshire and Arran Primary Care NHS Trust area.

I know that you were here for the previous witnesses, so you will be familiar with the format. I believe that Elaine Noad will say a few words

before I open it up to questions.

14:45

Elaine Noad (South Ayrshire Council): Thank you. In fact, I will hand over to David Sherlock and Dr Neil Beattie to make some opening comments.

David Sherlock (South Ayrshire Council): Thank you for the opportunity to speak to the committee. I want to summarise the issues that we raise in our submission. We welcome the legislation and we support a principled approach to it. We have had the temerity to suggest some principles, which I am sure are familiar to the committee: empowerment of service users; integration of health and social care systems; recognition of the value of local government; an enhanced relationship between local and central Government; taking the work force with us; and equal partnerships.

On specifics, the administrative arrangements for free nursing and personal care need developed, particularly with regard to assessment, care management and resource control. There is room for tension between those elements and some time and training is required to deal with that. Further work is required on consistency and charging arrangements. We welcome the extension of direct payments, which should be based on an evaluation of current arrangements—our submission suggests evolution rather than a big bang. We thoroughly welcome the increased support for carers. We warmly welcome closer integration of health, social care and housing services based on rolling out good practices, rather than on the basis of one model fits all.

We would like to reiterate our support for stronger links between health and social services. We have some good examples of that. We welcome enhanced relationships between local and central Government. We think that agreements over resource issues and streamlining of planning of control systems would help that.

Neil Beattie (Ayr, Prestwick and Troon Local Health Care Co-operative): I would like to say how pleased I am to be here with my colleagues from the local authority—we are an example of joint working. It is behaviour—not structures—that is important. I was interested to hear Joyce Lewis talking about care together and how different models should be applied across Scotland. We do not have a formal arrangement like the one in Perth and Kinross, but social work and education are firmly embedded in the everyday workings of the local health care co-operative. There is not just a token consultation process at the end of a decision-making process; the LHCC is part of the process from the start.

A slight concern that we have is the increasing

number of performance assessment frameworks. I might be on dangerous ground here, but we are worried that those frameworks provide comfort zones for politicians and organisers, rather than being based on clinical outcomes. If we go too far down that road an awful lot of energy will be diverted and expended on ticking boxes instead of concentrating on the benefits to the patient.

Elaine Noad: We asked Dr Neil Beattie to come with us today to demonstrate that we are truly integrated from the bottom up rather than from the top down. As members will see from our submission, we have representation on a range of committees, because we have tried to integrate throughout our planning, commissioning and delivery. That is the model that we wish to pursue for the purposes of the bill and the joint future recommendations.

The Convener: Before I open the meeting to questions, I wish to ask a quick question on promoting choice. The bill includes provisions for a number of schemes to promote and, if possible, extend choice for clients in the provision of care. You say in your submission that you are concerned that

“personal allowance and personal savings are protected and that measures are in place to ensure that inappropriate service charges are not levied by care homes.”

Could you outline further the basis of your concerns, and whether they could be addressed in the bill? I cannot remember what the protective measures are regarding personal allowance—which in my day used to be £13.75, but I guess it is slightly different now—so can you remind me what happens to that personal bit of the allowance when someone goes into a residential home? My memory is that it could be used up on such things as haircuts, newspapers and so on. How is that allowance protected? What did you mean by the statement that I have read out, with regard to tightening the protective measures? Should the issue be addressed in the bill?

Elaine Noad: David Sherlock will deal with the first part of your question, and I will finish off.

David Sherlock: Our concerns came out of discussions that we had with some assessment and care management staff, who made similar points to yours, convener, about newspapers and other hotel-style extras, which in an objective light may or may not represent full value for money. We had some concerns when we spoke to assessment and care management staff that some people may be a little bit vulnerable to the type of charges that have been suggested as extras. Their personal allowances and savings could be vulnerable in that regard.

Elaine Noad: I corroborate that, because it has been our experience that sometimes the personal

element has been bound up with top-up payments. Clarity is required about what are extras and what are not.

Clearly, we support the principle of choice. There is one issue about which we are concerned, which is causing concern elsewhere in the country, and that is the situation where someone in a so-called blocked bed wishes to go to a nursing home of their choice, but it is not available to them. At the moment, they remain in hospital until the place becomes available. We propose that it should be possible to move them to an interim establishment—the second choice—until the first choice becomes available, because that might contribute to better quality of care and free up hospital beds. I think that I have answered your question.

The Convener: Yes, you have.

Ms White: Thank you for your submission. It was interesting reading. I wish to discuss joint working with you and Neil Beattie, who I believe is from the health board—correct me if I am wrong. I will ask you the same question that I asked the representatives of Perth and Kinross Council. You have provided a full submission on capital resources. I wish to ask about the sell-off of hospital sites. You talk about joint working. Would it be advantageous to state in the Community Care and Health (Scotland) Bill that part of the money from the sell-off of hospital sites should be given to council social work departments to enable them to implement the legislation on care in the community?

Elaine Noad: I will start, then hand over to my colleagues. Yes, it would be helpful to state that in the bill. When we try to shift the balance of care to care in the community, one of the issues that we face is commissioning support and accommodation. I know from a previous life in a previous authority that pre-1995 there were financial penalties for health boards if they did not contribute some capital to commission services in the community.

I recollect that those penalties were removed in 1995, which changed the situation. To help to shift the balance of care to care in the community we need both the sharing of revenue resources and capital investment, which would come from the sale of a site. I know that health board members say that that cannot happen until the closure of a hospital, but the closure of a hospital might take two or three years at least. If together we are to shift the balance of care to care in the community, there must be capital investment and a shift of resources.

David Sherlock: I want to add to that—I am delighted that that question has been asked. My background is in housing and for many years

people with such a background have pointed out that there was a mechanism to transfer cash to meet the transfer responsibilities from what was called in the old days the Department of Social Security to local authorities—the care element transfer—and that there was a mechanism to deal with the transfer of health responsibilities to local authorities—the resource transfer for revenue-based services—but there was no equivalent mechanism for capital transfer; there was no capital resource transfer. That caused significant difficulties.

The moneys of the local authorities and Scottish Homes have been put to good use in financing community care, but they have been insufficient. In Ayrshire we have had experience of capital being made available through bridging finance in the old days of those schemes, which proved to be successful. A rigorous, independent monitoring exercise was carried out on mental health hospital discharges, which showed the value of capital resource transfer. We warmly welcome further arrangements to assist with capital transfer for housing, day care and joint-service delivery points.

Neil Beattie: We are trying to move from trusts to NHS Ayrshire and I would like the next move to be to care Ayrshire. Capital receipts from the sale of properties should be invested across the spectrum of care. For example, on the train today I discussed with David Sherlock where we can find some shared premises in Troon. We are sharing premises and we are getting together—developments now must have a strong social work element and a health element. The capital receipts that come from that should be invested for the good of the care community.

Iain Smith: I have a question about a detail in the section on direct payments on page 12 of your submission. That section states that the cost of increasing by 10 each year the number of people who receive direct payments would be approximately £75,000. Will you expand on that? Is that an additional cost because of the operation of direct payments or would it be incurred in any case? If it is an additional cost, what is it for?

David Sherlock: Those figures are an estimate, but we tried to ground them in our experience. They are based on the assumption that it would cost on average £144 a week per service user to introduce direct payments. That is less than the current average. We assume that along the way there will be some efficiency savings. We wanted to make the point that, although direct payments should be financed from current resources, we rightly have an emphasis on custom volume contracts to increase quality, which ties up our resources. Therefore, we must make provision for expansion in delivering new services.

The moneys that are involved in the estimate

would be primarily for the purchase of care and it is not envisaged that we would finance elaborate additional administrative arrangements. We have tried to work with existing resources to purchase care, but that will become increasingly difficult over time and we will have to make additional expenditure on infrastructure costs.

Elaine Noad: I have an additional comment. We run a small direct payment scheme from which we have learned a lot. We have set the scheme in a fairly robust legal framework, not least to deal with financial audit and accountability for the local authority.

However, we are considering an increase in the start-up funding for each client to enter the direct payment scheme. Although we already provide money for people starting up to advertise for staff and so on, we now believe that they need additional start-up funding to take independent legal advice. That relates to an earlier question that was put to Perth and Kinross Council about its responsibilities as an employer in relation to payroll and other issues. There is an infrastructure requirement for individuals to receive money to cover start-up costs.

Iain Smith: I want to discuss the joint working arrangements a little more, and ask you the same questions that I asked Perth and Kinross Council. Are you satisfied that the bill will deal with any remaining barriers to such arrangements? Do you see any particular problems in working with a health board that covers more than one local authority, or can any such problems be resolved without too much difficulty? Finally, your submission mentions a body to monitor the effectiveness of joint working and to deal with arbitration where such arrangements are not working. Would it be appropriate for the commission for the regulation of care to be responsible for that function?

15:00

Elaine Noad: That is a fairly meaty question. First, the bill provides for joint working arrangements, not least in its recognition of the need to take account of local circumstances. Our approach in south Ayrshire is more concerned with organic development, knitting in links between, and joint working across, LHCC committees and our own committees. The culture of joint working exists; as Dr Beattie said, the issue is behaviour, not structures. The bill proposes a framework that allows us to develop that aspect.

Turning to the second part of your question, I think that, like Tayside, we have done different things with or have reached different stages in some care group services, particularly in older people's services. That said, there are some very

good examples of joint working in health across the three local authorities in Ayrshire. For example, we should be able to develop our partnership in practice agreement for people with learning disabilities across health and social work on a pan-Ayrshire basis. However, Kilmarnock has different needs from Ayr and we will have to ensure that some methods of joint working across other care groups—such as those dealing with old people's services—take place at a local level. To do that, we must link in with LHCCs, which is what we are doing.

I cannot remember your final question.

Iain Smith: I asked about the reference in your submission to the need for a single body that would be charged with monitoring the effectiveness of joint working and arbitrating where any difficulties occur. Which body would most appropriately fulfil that function?

David Sherlock: Instead of suggesting which body should take on that role, I would prefer to describe the elements that it would be useful to monitor. There should be a stronger focus on outcomes. People in local government believe that the principles of best value are very effective in that respect and, regardless of which organisation is responsible, we ask that those principles should be the subject of monitoring. I am told that clinical governance principles in the health service are very similar to best value, and perhaps there should be some melding of those frameworks.

Furthermore, there must be a thorough review of planning and control mechanisms. We recently had to work on a joint committee care plan, a local outcomes agreement, a performance management planning audit and an older people's joint strategy all at the same time. Although they were all worthy exercises in themselves, they covered similar ground and required information to be collated and presented in slightly different ways.

Neil Beattie: From the health side, joint working becomes more complicated because we are dealing with a three-tier structure. From "Designed to Care", which introduced LHCCs, right through to the latest document on the subject, called "LHCC Development: The Next Steps", we have seen LHCCs becoming more involved in planning and operational aspects.

The development of LHCCs has produced ownership on the part of the front-line workers in the process, who feel that they contribute to strategic planning and have a say in what happens. That has released a huge amount of energy. The NHS boards—I am also clinical adviser to Ayrshire and Arran Health Board—are getting going. They too have a new energy.

We have the problem of the third tier—the trusts.

It is increasingly difficult to see what role the trusts have in the health service's planning and operational processes. The good work that has gone on has been at the level of LHCCs throughout Ayrshire—not just the work involving our LHCC in South Ayrshire—and has involved the local social work departments.

I know that this is not in its scope, but the bill will make things easier and will move the agenda further in the correct direction. The continuation of the trusts seems to be creating something of a block, rather than facilitating joint working and the planning process. The trusts have a role as facilitative powerhouses to get things going but, in my opinion, should not provide a controlling mechanism.

Mr McMahon: The Sutherland report took quite a long time to develop. There was then a substantial period during which academics, politicians, practitioners and others ruminated over the report. The care development group was established and took a few months to come up with proposals, which were published on 14 September. It then took only 11 days for the Executive to produce the bill to deliver on all that. Did that give rise to concern among your organisations? Do you think that the Scottish Executive has allowed enough time for consultation on the bill?

Elaine Noad: The bill's direction was well trailed and was the subject of discussion at local and national levels. We welcome its principles, which set up a framework to build on. The 11-day period was very quick, but there was a great deal of discussion in advance and the bill's aims were well defined among COSLA members in advance of its introduction.

David Sherlock: Colleagues to whom I have spoken are not complaining about the direction of the proposed legislation. They are familiar and comfortable with it, although they have raised concerns about the speed with which it can be implemented. There are also concerns about how we move towards more direct payments, given the infrastructure requirements, and about how we move towards full joint assessments, given the need to train people thoroughly to give up their notions of how assessments may have been done in the past—they were done singly.

It takes time to build relationships and trust, which are necessary to implement the joint arrangements, but we found that the general direction of the bill was warmly welcomed.

Tricia Marwick: Our previous group of witnesses said that we need national eligibility criteria, which would provide the only way to get away from the postcode lottery of care. First, do you agree with that? Secondly, given that the bill

will allow ministers the power to define social care by regulation for the purposes of separating out the personal care element from the housing and living costs of residential care packages, do we need a definition of personal care in the bill, rather than leaving that to regulation?

Elaine Noad: On your first question, I would agree with my colleagues from Perth and Kinross Council that we need eligibility criteria that are equitable and transparent. That would be helpful.

My first reaction is that it would be helpful to have a definition of personal care in the bill. A caveat is that what we talked about four or five years ago as personal care bears no relation to what we talk about now. Many of us are dealing with aging populations and increasing dementia—the definition may be clarified as we move to joint working. If there were a definition of personal care in the bill it might have to be amended after a period.

Tricia Marwick: You say that the definition from five years ago is unrecognisable. However, if there is no baseline definition of personal care in the bill—to allow for amendment if we are not happy about it—that will effectively allow ministers to change the definition by regulation rather than statute. Do you not foresee difficulty or danger in the fact that the definition that we understand at the moment will be unrecognisable in five years' time?

Elaine Noad: If there is a definition of personal care in the act we must be mindful of the fact that, in five years' time or whenever, we may have to revisit that definition and ask whether it has changed in the light of the changing demographics or needs of the population. However, I agree that there must be a baseline definition.

Dr Jackson: In section 2, where you consider the legislation, you talk about free nursing care and

“the potential for an undermining of needs led assessment and a danger of diversion away from care management.”

Could you elaborate on that?

I am sorry to say that I am very hard of hearing, so could you speak up a little?

David Sherlock: That statement comes from conversations with people in assessment and care management. The concern there is that their professional training in working with people's holistic needs—dealing with the whole person and working out all of their requirements—could be at odds with an expectation that people are arriving simply for an assessment of their eligibility to enter a nursing home. There is tension there. That probably needs to be dealt with in guidance and training as opposed to legislation.

Ms White: I was going to ask about funding proposals, but I think someone has already touched on that. In your submission you mention monitoring in relation to an arbitration service. Do you support the care development group's recommendation that the funding for older people's services should be closely monitored and transparent, so that everyone can see how much money is going in and how much money is made up from other areas?

I will ask the same question that I asked Perth and Kinross Council but I will not be quite so provocative about it. What if there happened to be a shortfall in the moneys? I will not mention the attendance allowance part of it. However, if there were a shortfall, which had to be made up by the Executive or by other means, would you like those moneys to be ring fenced for a particular purpose? Could I have an answer from both witnesses from the council this time?

David Sherlock: I will deal with ring fencing. The position that we would like to be in as a council is one where we have a director of finance and a director of health, housing and social work sitting next to each other, saying that they are happy with the structural arrangements for financing the local authority as a whole. I realise that that is not a simple thing, but if we got to that position the issue of ring fencing would be less difficult.

Ms White: Very well answered.

Elaine Noad: If COSLA were here it would say that for local authorities to exercise their democratic mandate the money should not be ring fenced and that it is a matter for local determination. In fairness, I think that local elected members prioritise expenditure on social work as at national level—that is certainly our local authority's experience. Therefore, if moneys come through, they go where they are intended to go.

We welcome local outcome agreements on funding. The Scottish Executive wishes to proceed with those to show outcomes through particular streams of funding. However, we have said that we want clarity on the streams of funding. This year, for example, it took some time to determine exactly where the learning disability change fund moneys were in the settlement. To proceed with local outcome agreements—which we welcome—we need real transparency and clarity in respect of the pots of funding that underwrite the different local outcome agreements. I emphasise the point that was made earlier: we want streamlining in the performance and monitoring of expenditure as we are currently regulated in at least four different ways.

The Convener: As there are no more questions, I thank the witnesses for attending. The exchange

has been interesting. If we need to get in touch with the witnesses again, we will.

15:18

On resuming—

15:16

Meeting adjourned.

Scottish Local Government (Elections) Bill: Stage 1

The Convener: We will now deal with the Scottish Local Government (Elections) Bill, colleagues. That will be a total change of subject, which will bring other parts of members' brains into use.

I welcome Peter Peacock, who is the Deputy Minister for Finance and Local Government; Leslie Evans, who is head of the Scottish Executive local government constitution and governance division; Frank Duffy, who is head of branch 1 of the local government constitution and governance division; and Murray Sinclair, who is the Scottish Executive divisional solicitor in the finance and central services department. All the witnesses have been before the committee previously, so they know the format.

I invite the minister to say some words and I will then open up the meeting for questions. I hope that he does not mind if we continue to drink our tea. We have a busy agenda and I wanted to give members a break.

The Deputy Minister for Finance and Local Government (Peter Peacock): I will be brief. I discussed the bill previously with the committee during the consultation phase. There was a significant response; I think that 80 responses were received, of which 31 were from councils. Only one council did not respond.

The responses supported the main thrust of the bill. All the councils indicated that they were in favour of a four-year electoral term. A clear majority—22—of the councils that responded was in favour of the coincident elections that are proposed. When the McIntosh committee canvassed opinion on that issue before the previous Scottish Parliament elections, only 16 councils supported coincident elections, so there has been a shift in favour of such elections.

As always, the consultation process was very helpful. It confirmed our view that coincident elections are important. Such elections strengthen the legitimacy of councils and ensure that turnout at council elections never differs from turnout at parliamentary elections. That means that people cannot make a distinction between the legitimacy of one tier of government and that of another. The consultation also encouraged us to make significant changes to the draft bill that the committee considered previously.

I want to flag up two specific changes. The first

relates to the concern that the committee and councils expressed about the wide-ranging powers that were proposed for ministers. Those powers would have allowed them to coincide local government elections with extraordinary elections of the Parliament. When I gave evidence to the committee on the bill previously, I hinted that we were considering changes to those powers and that we would ponder the matter further during the consultation period and thereafter.

As members know, we are proposing to narrow significantly ministers' powers to alter the date of local government elections. The bill now seeks to establish a relevant period during which ministers would have the power to coincide local government elections with extraordinary elections of the Parliament. That period is quite tightly drawn. Its beginning is limited by the date on which a council sets its council tax rate for the year. In no year would a council be prevented from doing that by the calling of an extraordinary Scottish Parliament election, but that could have happened under the previous draft bill. The relevant period would start on 11 March and run to the normal date of a Scottish Parliament election, or to the date of a Scottish Parliament election as varied by the Presiding Officer, who has the power to change that date in particular circumstances.

Only during the narrowly defined period that I have set out would a minister have powers to vary the date of a local government election. The proposed powers are a purely pragmatic measure and are designed to ensure that local government and Scottish Parliament elections are not held on different days within a very short period. I trust that the changes that we have made will address the concerns that were expressed by the committee and others.

We have continued to receive representations, mainly from local authorities, concerning the need for local authorities to have powers to experiment with the way in which local government elections in Scotland are run. Local authorities are seeking a set of powers that mirror the powers that have been available for some time to councils in England and Wales. We have therefore introduced provisions to the bill that would give ministers the power to authorise local authorities, at their request, to experiment with the way in which local elections are administered. The intention is to improve flexibility, to increase turnout at elections—an issue that concerns members of the committee as well as the wider public service in Scotland—and to encourage greater efficiency in running elections. Under the new powers, local authorities will be able to present ministers with ideas that they want to experiment with and ministers will be able to approve them. We want to encourage local authorities to come forward with ideas and to make applications to ministers in due

course.

Those are the two significant changes that have been made to the bill since we discussed it last. One provision is new, whereas the other seeks to address concerns that were expressed by the committee and others about ministers' powers to alter the dates of local government elections. I am happy to answer any questions from members.

The Convener: One issue that was raised by most councils to which we spoke and by the Convention of Scottish Local Authorities in the consultation is that of publicity during election campaigns. I suggest that when Scottish Parliament and local government elections are being held at the same time, the media will concentrate on national rather than local issues. During the previous Scottish Parliament and local government election campaign people were informed that they had two votes, when in fact they had three. How will the bill address that issue? It is important that, when elections are called, there should be equality. During elections local authorities should feel that they are on an equal footing with the Scottish Parliament.

Peter Peacock: The bill addresses some of, but not all, the points that the convener has raised. I will explain how we are addressing the issue of ensuring equal footing. One way to ensure equality is to ensure that when elections are being held on the same day, people understand that they are voting for two different levels of government. That would help to clarify the position, because it would allow people to distinguish between local authority and Parliament elections.

In the past, when elections did not coincide, national issues tended to dominate local elections. Some commentators would invite people to cast their vote at a local election as if it was a referendum on the national Government. Clearly that is wrong. By using coincident elections, we have the opportunity to give greater parity to both types of election than was the case in the past.

The bill per se does not deal with the question of publicity. However, the Scotland Office, which deals with elections to the Scottish Parliament, has established control of administration of those elections. A working group of Scottish Executive and Scotland Office officials has been set up. The intention is to bring in, in due course, others—including electoral registration officers, returning officers, others from the local government community and other interests that might have a bearing on the question—to examine all the matters that relate to administration of elections. That would include publicity.

I accept the point that was made by the convener. In future, it would be helpful to be seen

to be helping a democracy day, if you like, in a way that reveals to people the true extent of the powers that they as citizens have in casting their vote. The intention is for that working group to address all those issues and to seek to co-ordinate the actions of the Executive and the Scotland Office in the administration of both elections. A comprehensive agenda is being set out for the working group to examine a range of matters, including those that were raised by the convener.

Tricia Marwick: In your introduction, you said that one of the reasons for having coincident elections was to strengthen the legitimacy of councils. I remind you that Kerley said in his report:

"coincident elections would bring to local government:: a share in the increased turnout that a national election brings... However, the higher turnout could not be claimed as an increased democratic mandate for local government: it would not bring additional voters to the polls because of their involvement in local government issues. In fact, coincident elections would tend to reduce the electorate's focus on local government issues."

Will you comment on that?

Peter Peacock: I set out our thinking the last time I gave evidence and I am happy to do so again today. We believe that it is important to have equality of legitimacy in electoral terms between the Parliament and local government. It would be deeply unfortunate to take the alternative to what we suggest. That alternative would be to have elections on different days and to discover—all the evidence suggests that we would—that Scottish parliamentarians were being elected on an average turnout of 60 per cent. It is hoped that that figure could be increased in time—it is in everybody's interests to do so. Thereafter, local authorities might be elected on an average turnout of 30 to 40 per cent. That would give rise to people questioning the difference in legitimacy between those two tiers of democracy in Scotland.

Our objective is to make it clear that such a difference should not exist and the best way to do that is to ensure that we have a similar, or almost similar, turnout at both elections. That would remove the grounds for people to undermine in any way local government and its democratic legitimacy. I understand what Kerley said but, on that point, we have chosen the course of action that we suggest in the bill because we feel that that is the best way to achieve equality of legitimacy.

Tricia Marwick: I am sure that we are not going to agree about that. Higher turnout does not in itself confer legitimacy on local government, if local government has not had the opportunity to be examined within an election period. There is no doubt that the Scottish Parliament and the local

government elections that were held in 1999 did not examine local government issues. Where is the evidence to suggest that in the coincident elections of 2003 the examination of local government as a separate entity will take place?

Peter Peacock: One must come to a judgment about such matters. Our judgment is clear—as I said in my opening remarks, all the evidence from past local authority elections has shown that local elections have tended to be treated as national referenda on the national Government of the day. As somebody who came into Parliament through local government, I regret that. It is important that local authorities get the scrutiny at which Tricia Marwick is hinting, and that people base their judgments in local elections on local issues.

However, in the past all political parties have been guilty of using local elections as national referenda. Having elections on separate days would not guarantee that local democracy was open to any more scrutiny. The evidence seems to show that local elections used to be hijacked for national purposes. I can understand the argument that if a local election were taking place, that would be disguised by the Scottish Parliament and national issues, but I do not believe that that would be inevitable.

15:30

The opportunity exists to characterise the elections as a democracy day in Scotland, where people would cast three votes—two at the Scottish Parliament election and one at local elections. Through that device, people would be able to characterise the differences in those elections. People would be asked to examine the issues on that particular day. In that sense, I am not therefore concerned about the argument that Tricia Marwick makes. I think that there is an opportunity to sharpen up the definitions of the two levels of government and to allow people to make choices on election day about local government and the Scottish Parliament.

Tricia Marwick: It is certainly true that, to some extent, local elections have been used in the way that you describe. However, your knowledge is of being an independent candidate. In what ways do you think independent candidates will suffer when two elections are held on the same day and the focus is clearly not going to be on local government issues?

Peter Peacock: I do not think that it makes a difference to any kind of candidate, whether independent or standing under the banner of a particular party. That was the case at the last election. If one considers the areas where there has been a tradition of independent candidates, the balance did not shift in local elections. I do not

think that there is any evidence to suggest that independent candidates would be more affected than any other group of candidates. They would stand equally with other candidates on the day and would be judged by the electorate in the normal way.

Mr McMahon: I am particularly pleased about the provision in the bill for pilot schemes. I welcome the innovation of allowing local authorities to seek permission to consider different practical methods of casting votes and where votes might be cast. However, for a long time, the disabled community in Scotland has been trying to ask questions about their difficulties in being able to cast their votes. Is there any scope in the bill to allow local authorities to pilot schemes that would promote better access to the voting system for people in the disabled community?

Peter Peacock: The short answer to that is yes. We have a similar concern. However, more is happening and I will set that out and put it into the context of the provisions of the bill.

I have a friend who is visually impaired; she has had difficulty with voting in the past and has been campaigning hard for change. From her efforts, I am aware of what is happening and of the concerns that exist.

Our officials recently met representatives from the Disability Rights Commission and Capability Scotland. The officials set out proposals—they are already being progressed; we plan to introduce them at the same time as the bill—on secondary legislation to improve the way in which we can service that part of the community in the way that Michael McMahon described. No doubt that secondary legislation will go to the Subordinate Legislation Committee and might well also come to the Local Government Committee—I am not clear about the procedure. The proposals include large-print ballot papers, with visually impaired people in mind. The use of Braille and other devices that are available to help blind people to cast their vote will also be considered, as will a companion facility in which a person who has a disability can be accompanied to the ballot box and helped to exercise his or her vote. That is part of a package of proposals that will regularise a number of anomalies that exist in electoral law. The Disability Rights Commission and Capability Scotland were pleased to hear about those proposals.

Beyond that, the working group to which I referred a few moments ago has on its agenda action that we must take to implement the spirit of the Disability Discrimination Act 1995. In order to widen access and opportunity, the group must also ensure that, as far as is possible in all the provisions for elections, returning officers and others involved in the organisation of elections

make proper provision for all types of disability.

The working group will consider all those issues with a view to issuing guidance to returning officers, including training and, perhaps, a checklist of steps that returning officers should go through before any election to ensure that we cover all angles in relation to different disabilities. The working group should make progress on that.

Beyond that and as part of the provision for pilots and experimentation, disability is the sort of area in which we would be keen to consider innovative ideas. If there are applications for pilots that will allow people to experiment further, we will be more than sympathetic to those applications. The one qualification that I make to that is that we do not want pilots to be used to take action that people ought to be taking anyway to implement the spirit of the Disability Discrimination Act 1995. Pilots should be used to test ideas for measures that are genuinely innovative, that take everybody's thinking further forward and that might be applied more widely. We would be more than willing to consider such pilots and would be pleased to receive applications of that type.

Ms White: I want to touch on pilot schemes before I ask my other question, because the issues are tied together. I agree—I am sure that everybody else here does—that we want to make elections as accessible as possible for everybody, regardless of what disabilities people might have. Ease of access makes it easier for everyone to get to elections and allows proper proportional representation across the board. My original question was about proportional representation.

Pilot schemes have been mentioned and I am glad that they will be included in the bill, but they are to be used only for local government elections. If we wish to be consistent, could not they be used for Scottish Parliament elections? As the minister said, some councils have decided that both sets of elections should be held on the same day. The minister makes the argument that Scottish Parliament and local government elections should be held on the same day. However, local government is not elected by PR, but the Scottish Parliament is to some extent. Local government elections are now being subjected to pilot schemes, but the Scottish Parliament elections are not. That seems to be a bit of a mishmash.

The Convener: I remind members that PR is a reserved matter for us. Part of the question does not need to be answered, although it is difficult to separate it out.

Peter Peacock: There are two questions.

The Convener: You should pick up on what you can.

Ms White: I clarify that I asked one of the

questions that appeared on the briefing paper. Perhaps somebody does not know that PR is a reserved matter.

The Convener: That was not the question.

Ms White: I normally do as I am told, which is why I asked the question. Anybody who had a bit of common sense would ask that. The public will wonder why, if we are to vote in two elections on the same day, we will vote using PR to an extent in one election, but not in the other.

We do not need to be reminded of the fact that one of the Kerley report's recommendations was that there should be PR for local government elections. I know that two of the parties that are represented in the committee support PR for local government elections.

The minister will know that he is free to answer and I am sure that he will answer honestly and in an up-front manner.

Peter Peacock: The intention of the bill is not to deal with PR in local government elections. It is about how we administer the current electoral system. It is about improving the administration of elections and making it easier for people to vote whatever the system of election and it is about increasing turnout. Those are the essential qualities of the bill. It is not intended to be a means by which to try new electoral systems. I am sure the committee is aware that a ministerial group is considering the outcomes of the Kerley report and that the partnership is committed to making progress on the question of electoral reform. The bill, however, is not intended as a vehicle for electoral reform.

The second question was about the fact that the Scottish Parliament elections, despite being held on the same day as the local government elections, would not be capable of running pilots in the same way as the local government elections. The administration of the Scottish Parliament elections is a reserved matter and we cannot have a direct impact on that. Having said that, I am aware that the working group will also consider whether the Scotland Office needs or wants to take—or whether we can encourage it to take—the same powers that we have in relation to local government elections. That would ensure that, if we wanted to approve an experiment or pilot to take place on the day of a Scottish Parliament election, a pilot could be conducted. That is ultimately a matter for the Secretary of State for Scotland. I know that she is generally sympathetic to moving in the same direction, but it is a question of finding the legislative vehicle with which to do that. We are working with colleagues in the Scotland Office on the matter to minimise any discrepancy that might exist between the two elections.

Ms White: The timing of local government elections and their voting systems are our responsibility, but Scottish Parliament elections are a reserved matter. To be wholly consistent, why do not we have the elections to the Westminster Parliament on the same day? Perhaps you cannot answer that hypothetical question because it is a reserved matter, minister.

The Convener: Absolutely. That clarifies the point. The minister cannot answer that question, because it is a reserved matter.

Iain Smith: I welcome the changes to the bill, which deal with the concerns that I raised with the minister. I thank him for making those changes.

Does the minister agree that the suggestion that local government elections might be overshadowed is not backed up by the evidence from the 1999 elections in Scotland and from studies that were carried out in parts of England where local elections were held on the same day as UK general elections? There is significant evidence that people vote differently in the different elections. For example, in Perth and Kinross and in Moray, the local administration was kicked out of office, but people voted differently in the Scottish Parliament elections. Does he agree that the electorate are quite capable of voting differently and of understanding that they are voting in different elections?

Peter Peacock: I thank Iain Smith for his help and for the points that he made about the draft bill. The changes that we have made are, in significant part, due to some of the concerns that he raised with us.

I agree with what Iain Smith said. The evidence does not support the suggestion that local elections are totally swamped. People are quite capable of making different judgments. In fact, they might make different judgments within the Scottish Parliament election, and may cast their second vote in a different way from their first. There is some evidence that that happens. People may also cast their local authority vote in yet another direction. There is evidence that the electorate are sophisticated, that they understand the system well and that they can participate fully, as Iain Smith described.

Iain Smith: My second question relates to points that were raised in evidence on the draft bill from the returning officers, who have concerns about the different rules that apply to different types of elections, which could cause some problems when running simultaneous elections. Is the Executive trying to ensure that the rules are, as far as possible, consistent for the Scottish Parliament and local government elections? That would minimise administrative inconvenience.

Peter Peacock: The working group is part of the

mechanism for deciding that. In the package that we are considering in relation to secondary legislation on disability matters, we will consider nomination criteria for candidates seeking election to the Scottish Parliament and to a council. At the moment the criteria are different and we need to tidy up things like that. The working group will identify such matters. If we can deal with such matters through secondary legislation we shall do so, and we shall encourage Scotland Office colleagues to do the same in relation to their powers, to ensure that there is no discrepancy between the two sets of elections.

Iain Smith: My final question is technical. Until the bill is enacted by the Parliament, the due date of the next Scottish local elections remains 2 or 3 May 2002—I cannot remember which date is the Thursday. Normally, when a local authority vacancy arises within the six months prior to the date of the elections, no by-election takes place. If we extend the life of councils by another year, that will obviously create an inconsistency. Is that being examined, and will councils be given guidance on what to do in such circumstances?

Peter Peacock: I am grateful to Iain Smith for raising that point and for giving me notice that he would raise it. He has a point—we are actively examining the matter and we will probably introduce a small amendment at stage 2 to cope with that problem and ensure that matters are regularised. We believe that the problem might not be as stark as it first appears and that there might be powers in the Scotland Act 1998 that would cover such circumstances. However, to avoid doubt, we shall introduce a small amendment to tidy up the matter unequivocally. We intend to deal with that.

15:45

Dr Jackson: I can see that Iain Smith is following in the footsteps of Donald Gorrie with his very useful points.

What did you learn from the pilot schemes that were run during the 2000 elections in England that we will be able to feed into our pilot schemes? Do you have any ideas about the form that the pilots might take or who will fund them?

Peter Peacock: The evidence from the pilot schemes that have taken place south of the border is mixed. Postal voting has been shown to be the element that raises turnout the most by making it more convenient to vote. Other implications follow from postal voting, but it looks quite promising. However, initiatives such as extending elections over a couple of days or using electronic voting mechanisms have tended not to have significant impact on turnout—perhaps there have been marginal shifts of between half a percentage point

and a couple of percentage points. That is not to say that it is not worth persisting with such initiatives, as people may become more comfortable with them, especially electronic voting using the internet.

What has happened in England and Wales would not rule out any experiments in Scotland. Similar experiments, perhaps marketed differently, might be more successful in Scotland. We genuinely want people to tell us what they believe suits their community best. The Scottish Executive is not pushing any particular experiments. We have an open mind and will consider suggestions dispassionately. I encourage any local authority that is thinking about the way in which it holds its elections, counts the votes and so on, to tell us its thoughts. If the Scottish Executive approves the initiatives, we would allow the local authority to experiment.

We are examining funding and I do not want to give a commitment on the issue today. Some experiments could be on a large scale. The evidence from south of the border and the financial memorandum that accompanies the bill indicate that the cost should not be great, but we might need to do something to encourage certain forms of experimentation that might have a higher cost than others. We are not ruling out the provision of funding yet, but we are not ruling it in either.

The Convener: We must address the fact that, especially in local government elections, the majority of people do not cast their vote. Are you convinced that pilot studies are not just, at best, a public relations exercise or, at worst, a waste of public money? I do not know how the pilot schemes will be assessed, other than that the Executive will have some sort of group. Also, I do not know how the matter will be pursued after that point. I understand why postal voting was the most successful initiative in England. Have you investigated whether the majority of people in other European countries are also failing to cast their vote? People to whom the committee has spoken have felt that, while pilot schemes sound like a good idea, no one is sure what to do after the evidence has been gathered.

Peter Peacock: Pilot projects alone will not boost electoral turnout, apart from by making it more convenient for people to cast votes. Postal voting appears to be more convenient and raises turnout. We should not dismiss that, as postal voting might become more widespread. Equally, electronic voting might become more fashionable, particularly for the younger generation, which is more used to using the internet and the technology that surrounds it. I have not personally examined in depth all the lessons from overseas on turnout. We could do work to see whether there

are lessons that we can learn.

Fundamentally—this is a much longer-term issue, which we all have to work on—people cast a vote because they believe that it is relevant and that they can affect the affairs of their local community. That takes us into other areas, such as how councils make decisions and how they organise themselves. Are councils decentralised or centralised? Do they consult their consumers, customers and citizens? Are they highly interactive? If they are, people may have a different view of their ability to influence events in their council. People may have a better understanding of their council and be more enthusiastic about casting a vote, because they know that it can make a difference, which it undoubtedly can, as we all know.

Pilots are an important ingredient in the mix of measures, but they are by no means the only way of encouraging turnout. All of us in politics must continue to address how we properly engage citizens so that they can see the relevance of their vote and its enormous power to change events.

The Convener: You are right that pilots in themselves will not do that. Everybody must work together.

Tricia Marwick: You said that high turnout is important, and we all agree with that, but if the issue was just about high turnout, we would be proposing a legal requirement that everybody should vote. I will take you further and ask about engaging citizens. How much has the Executive consulted residents groups, community councils and the rest of civic Scotland, or has the consultation been confined to councils, returning officers and those with a vested interest?

Peter Peacock: All our consultations are entirely open. It is for people to pick up the documents—they are widely available and are published electronically—and comment as they see fit. Obviously, local authorities have a particular interest in such matters, as do other groups such as returning officers. They will continue to give a lot of attention to these matters. We received quite a number of representations from an SNP branch in the west of Scotland, which demonstrates that information flows out to all sorts of places.

Tricia Marwick: That is hardly normal, though. Not even an SNP branch is normal. My question was about engaging ordinary citizens. The problem is that they do not vote.

Peter Peacock: If you are saying that the SNP branch members are not ordinary citizens, that debate should take place elsewhere.

Tricia Marwick: I am talking about vested interests.

Peter Peacock: People are free to participate. Local authorities are in regular contact with, for example, community councils. Community councils are aware of that, in the same way that they are aware of a whole range of things to do with the functioning of their council. Residents groups are also aware of that and they are free to comment on any consultation. Of course, the extent to which they choose to do so is a matter for them.

The Convener: Okay, that seems to be it. Thank you for coming along, minister. The session has been useful. I am sure that we will see you again.

I have to leave to put in a bid for the civic participation event, so behave yourselves.

The Deputy Convener (Dr Sylvia Jackson): I welcome Alan Campbell, the chief executive of Aberdeenshire Council. Would you like to say a few words?

Alan Campbell (Aberdeenshire Council): Yes. I am also the returning officer for elections. I was just checking the minutes and back in 1997, when I was chairman of the Society of Local Authority Chief Executives and Senior Managers in Scotland, I was on record as suggesting that we should have the local government elections and the Parliament elections on the same day. I was particularly concerned about turnout figures for local elections. I felt that the experience of 1999 vindicated that approach in relation to the sensitivity that the voters exhibited.

I was a bit disappointed with the McIntosh commission's recommendations, but I am pleased that the bill now takes account of my primary concern, which was not to put any obstacle in the way of voter turnout. That is my independent view as a returning officer. The majority view in the council coincides with that; it is believed that it is clearly beneficial to have the elections on the same day. However, a minority expressed concern that local government issues would be made secondary if that were to happen. The majority of the council, however, is in favour of the bill as presented.

The Deputy Convener: Do you still have any concerns arising from the bill as drafted?

Alan Campbell: I feel that the bill now takes account of our previous concerns. I am in favour of the bill's provisions.

Mr McMahon: You probably heard me say that I welcomed the opening up of the bill to local authorities to promote innovative ideas to get people to the polls and allow them to vote. Have you or your authority had any ideas that you would be keen to introduce or at least try in order to seek ways forward?

Alan Campbell: Yes. Much of our area is rural and I have considered that postal voting might well assist the turnout figures. We do not have a tremendous history of huge turnouts in north-east Scotland, and I felt that postal voting might be appropriate. I am aware that the current system is quite robust in many ways. There is a concern that, if you offer widespread postal voting, it may be abused by unscrupulous individuals. That would have to be safeguarded against. Postal voting is probably more important than some of the electronic systems, which are still in their early days, I think, and their integrity is questionable.

Mr McMahon: Are there any administrative or financial implications with regard to pilots? Could extending pilot schemes across a local authority for an election have wider implications?

Alan Campbell: A local authority will always be concerned about whether the Scottish Executive will support a pilot that involves extra expenditure, even when both the expenditure and the pilot are reasonable. It seems clear that election arrangements will be different in five to 10 years' time. It would be helpful to try a range of pilots, even if some are apparently more expensive than others. There might have to be financial assistance to authorities to encourage them to experiment with those pilots that might be more expensive.

Mr McMahon: It would strengthen your argument that democracy does not come cheap.

Alan Campbell: Indeed.

Ms White: My question follows on from Michael McMahon's point about the pilot schemes and concerns the Scottish Parliament elections. However, I will not go into that matter fully with you as I have had answers from the minister. Do you envisage problems arising from having the ability to pilot schemes for local government elections but not for Scottish Parliament elections?

Alan Campbell: Yes. I think that one can envisage difficulties if voters receive one form of ballot paper through the post but have to turn out in the normal way for another election. Also, systems are different in local areas. Publicity will be extremely difficult. However, it has to be said that the experience of 1999 showed that the electorate were much more sophisticated than many pundits gave them credit for. We should bear that in mind. There is a concern that young people are not voting and we have not really found out why or what we can do to change things.

16:00

Ms White: That clarifies some of the pilot schemes and the difficulty of getting people to vote. Will the added difficulty—as I see it—of

having one scheme for local government elections and another for Scottish Parliament elections mean that more money and resources from local councils will have to be put into advertising and public relations exercises to explain why people must vote in local government elections?

Alan Campbell: We should do that. A lot of money must have been spent nationally on the 1999 elections. A large amount of money was spent on training staff. We must maintain that level of investment and not see it as a one-off in relation to the inauguration of the Scottish Parliament. Training for staff is important so that they can get the message across to the voters when they come to polling stations.

The Deputy Convener: I have a question that leads on from Sandra White's comments. I do not know whether you were in the room when the Deputy Minister for Finance and Local Government was here, but in response to a question from Iain Smith the minister said that he was trying hard to harmonise the two procedures. Do you welcome that move?

Alan Campbell: I would certainly welcome that. There are several anomalous situations that make it quite difficult for returning officers, but despite that, the benefits of having the elections at the same time outweigh the disadvantages.

There are also problems in relation to the count. We are sometimes too ambitious in conducting the two counts one after the other. I favour starting the local government count the day afterwards at noon. That happens to suit us locally. If that were synchronised across Scotland as far as possible it would be helpful as public expectations would be equal.

Iain Smith: The minister said that a working group is looking at the anomalies in the system. Are there any particular anomalies in synchronised elections that you would like that group to address to make life easier for returning officers?

Alan Campbell: There were some allusions to anomalies around the nomination process. They are fairly technical. The difficulty is that the Scotland Office seems unable to respond at the speed that we would like. We anticipated some difficulties in relation to the general election, for example, and even though it was slightly postponed we found that we were running up against the wire before those matters were dealt with.

Iain Smith: I am not sure why the Scotland Office cannot respond—it has nothing else to do.

Has the Executive been in touch with returning officers to ask them to highlight issues?

Alan Campbell: Yes, there is to be a meeting. We had little contact prior to the general election

and lots of contact prior to the Scottish Parliament elections. We need to resume that contact. It is fair to say that, because the elections use different systems, new issues are always being thrown up. Regular contact is important, particularly if there are to be experiments.

Tricia Marwick: How much, if any, consultation on possible pilot schemes has Aberdeenshire Council had with the electorate, community councils, residents or tenants associations?

Alan Campbell: We have not done any consultation but I would propose that we do. We have community council forums at which representatives of community councils get together. Those forums would be a good place to discuss possible approaches.

Tricia Marwick: How conscious are you of personation in piloting innovative new schemes? What are your thoughts about that? One of the strengths of the present system is that returning officers in many polling stations have held their position for, say, 20 years, and know almost everybody in their ward.

Alan Campbell: Being an old lawyer, I am particularly conscious that the system as currently operated is pretty robust in many ways. Having said that, I am conscious of two cases of personation, neither of which has come to court. I am obviously concerned that, in any scheme, whether experimental or adopted, we open the door to distortion in that way. It is up to us collectively to ensure that any scheme that is introduced, if it is to bring benefits, also eliminates as far as possible personation and other possible distortions.

The Deputy Convener: Thank you for coming along, Alan. We will take away your ideas about the consultation that is still needed.

We will have a brief adjournment while we wait for the representatives from Clackmannanshire Council.

16:05

Meeting adjourned.

16:11

On resuming—

The Deputy Convener: I welcome two people from very near home: Keir Bloomer, the chief executive of Clackmannanshire Council, and Keith Brown, the leader of the council. I invite you to make some opening remarks.

Keir Bloomer (Clackmannanshire Council): We are grateful to you for inviting us to come along to supplement the responses that we have

already submitted on the Scottish Local Government (Elections) Bill. We wish to touch on only one main issue in our introductory remarks, although I appreciate that you may wish to ask us about other issues raised by the bill: the simultaneity of local government and Scottish parliamentary elections.

We appreciate the fact that there has been a serious deterioration in democratic participation. That is an issue that the Parliament will, rightly, wish to address. Our council is also anxious to address it. To that extent, we share the objectives behind the bill, but we see the decline in participation in elections not as the result of some technical difficulties in the voting system, but rather as that of a popular concern that participation does not lead to practical results, that the elected bodies are somehow out of touch with the needs of ordinary people and that politics is failing to address the issues that concern people. Those are the issues that require to be addressed if we are to rebuild faith in our representative democratic system.

Members might say that making adjustments that would raise turnout will not be harmful, and that we might as well do what little good we can in that direction, but we are concerned that the notion of simultaneous elections is counterproductive when we consider the causes of low voter turnout. People's desire to participate in local council elections will be restored if they feel that the councils that they are electing have genuine powers and have the capacity to exercise those powers independently. The most obvious instance of that would be reorganisation of local government finance so that we have greater autonomy and control over our own resources.

The bill would result in local government elections being held at the same time as Scottish Parliament elections, which would ensure that the issues that dominate both elections are national rather than local. That would diminish the level of interest in what our part of the elections ought to be about and in our view would contribute to the democratic deficit rather than help to alleviate it. Although we feel that the bill is well-intentioned—we understand the concerns that lie behind it—we think that that important aspect of it will be counterproductive and ought to be abandoned. We ought instead to concentrate on other measures to ensure that local government—which has an independent democratic mandate—is given more autonomy and independent status so that its significance in voters' eyes is enhanced and we can move towards restoring a genuinely pluralist democracy in Scotland.

16:15

Keith Brown (Clackmannanshire Council): Keir Bloomer has hit on the key issue for us, which is the coincidence or otherwise of the elections. We made representations on other aspects of the bill. We support the idea of a four-year term, which makes a lot of sense to most people in local government. In relation to new ideas to try to increase turnout, we are mindful of the pilot schemes that the Home Office ran last year for the English local elections and the fact that the only one that seemed to have a reasonable impact was the introduction of all-postal votes. You may know, convener, from your experience on Stirling Council and from the postal ballots for community council elections that that has had a big effect.

Nevertheless, I reiterate the point that Keir Bloomer has made. The pilot schemes may lead to temporary and sometimes substantial increases in turnout, but the real question is whether people feel that, in local government elections, they are voting for a body that has some power and autonomy and a mandate that is distinct from that of central Government. That is why we feel that it is important to follow McIntosh's recommendation for alternating the elections.

Mr McMahon: Do you think that the arguments for and against simultaneous elections have to be mutually exclusive? You said that the arguments that are made for increasing turnout and voter participation pale into insignificance if local authorities are regarded as more important by the electorate, local government has greater autonomy and the democratic deficit is removed. Why should those arguments be mutually exclusive? Why cannot there be increased turnout through synchronisation of the elections and greater esteem for local authorities through increased financial autonomy and so on? You phrased your comments in such a way as to suggest that those things are mutually exclusive.

Keir Bloomer: There are things that could be done to attempt to improve turnout that would not exclude the increased autonomy for local government that both Keith Brown and I are concerned about. There are other possibilities, which involve the voting system. Keith touched on all-postal voting. There are other innovations along those lines that could be considered. Indeed, the bill mentions the possibility of new models. The difficulty with simultaneous elections is that which I mentioned: if there is campaigning on a Scotland-wide basis on issues of concern to everybody the length and breadth of the country while there is campaigning in the 32 local authority areas on a wide variety of issues, the publicity will be attracted to the former campaigning rather than to the latter. It is in that sense that the proposal for simultaneous elections undermines the standing of

local government, and that is an either/or issue.

Mr McMahon: I am sure that you have heard arguments about the impact on a national Government and its standing among the electorate when a local authority election falls in the middle of the term of that Government. Local authorities have argued that they have felt punished through the decisions that have been made by the voters in response to events that were beyond the control of local authorities.

It has been suggested that there is no clear argument that people will not be affected by issues beyond those on which they are voting. I am not convinced of that, however: there is evidence that voters at the Scottish Parliament elections and local elections that took place in 1999 easily differentiated between what they were voting for at a local government level and at a Scottish Parliament level. They were free to do so and did so.

Keir Bloomer: Your first point was about the way in which local politicians have sometimes reacted to the results of elections held in the middle of a parliamentary term. The argument that those politicians present is perfectly plausible, but it reaches a conclusion opposite to yours. If the impact of national politics is so great compared with that of local politics that national factors influence the outcome of local elections even when they are not held at the same time as national elections, how much more will they influence the outcome of local elections when they are held simultaneously?

I conclude that although the point that those local politicians make has merit, it does not support the notion that elections should be simultaneous; it supports the contrary notion. I am sorry, I have forgotten your second point, Mr McMahon. Could you remind me of it?

Mr McMahon: You have confused me. The first point, which I do not necessarily agree with, was about mid-term elections. The evidence that we have from the previous election shows that if elections are synchronised, people can differentiate between the levels of government that they are voting for. Therefore, even if the first argument does not hold water, the statistical evidence shows that people can clearly differentiate between voting for the Scottish Parliament and voting for local government.

Keir Bloomer: The evidence showed that a percentage of people feel sufficiently strongly about a local issue or candidate to vote differently in the local election and in the Scottish Parliament election—but the percentage is small, so that argument tends to favour the opposite side of the debate.

The evidence shows that the overwhelming majority of people voted in the same way in both elections. A variety of conclusions can be drawn from that. It might be that people want to support the same party for the same reasons in both elections. It might be—I would argue this in a lot of cases—because of the fact that the national debate has assumed prominence in the minds of the majority of voters. There is no means of saying which conclusion is correct, but we can conclude that the number of people who exercised their right to vote differently formed a comparatively small percentage of the overall number of those who voted.

Iain Smith: That is one way of considering the issue. I am not sure that I read the evidence in the same way. Even if the elections are held on different dates, one cannot argue one way or the other for whether people are voting on national or local issues. It is no different if people vote at the same time. There is no evidence to suggest that people who vote in my constituency vote differently because the elections are on the same day or on separate days—voting records show that. Where does your evidence, which suggests that the vast majority of people are voting on national rather than local issues in local elections, come from?

Keir Bloomer: I can only refer back to the point that Mr McMahon made a moment ago in the first of his two statements. He said that local politicians, presumably as much in Mr Smith's party as in any other, tend to take the view that in mid-term elections they have been the victim of the national circumstances of their party. I assume that they argue that more often when they lose. They appear to be persuaded that in non-coincident elections, national issues hold great sway. If that is true, it is damaging to the democratic framework so we require to take steps to ensure that the autonomous mandate of local government is protected. Exacerbating the current difficulties through ensuring that the elections always coincide would not best protect the mandate.

Iain Smith: We may have to agree to differ on that point. I accept what you said about ensuring that local government has a strong democratic base and that there is a point in voting in local elections. Those are valid points.

I have a couple of questions on your original submission on the draft bill. I want to discover whether some of your points have been taken up and covered in the bill as introduced. You refer in particular to the case of "an extraordinary general election" for the Scottish Parliament. Are you satisfied that the bill's new provisions meet the points that you raised in the report that you submitted to us on 13 June?

Keir Bloomer: As I understand it, the period is currently limited to six months, which is obviously a considerable improvement over the position at the time I wrote my response.

Iain Smith: Actually, I think that the period is limited to two and a half months, from 12 March to the beginning of May.

Ms White: After reading your submission and examining the bill's proposals, I do not think that you and the Executive differ very much. You are quite happy with extending the local government term of office to four years; you are considering other innovative methods of voting; and you are looking forward to the introduction of pilot schemes. The one matter on which you differ with the bill is the timing of elections. Your submission seems to suggest that voters in local government elections and the autonomy of local government should be protected. I think that all members would commend anyone who takes that position.

You said that there are other ways of persuading people to vote, besides holding elections on the same day. Do you agree that the provisions on the timing of elections are a short-term solution to a long-term problem? Michael McMahon and Iain Smith mentioned the issue of constituency and consistency. There are different ways of voting in Scottish local government and Scottish Parliament elections. For the purposes of consistency, should a bill on the timing of elections include provision for a proportional representation system for local government elections? Would it also be consistent to extend voting pilot schemes to Scottish Parliament elections? Finally, as far as the whole picture is concerned—and as I have already asked the minister and various councils—why can we not hold elections to Westminster on the same day as the other elections, if it does not pose such a problem, promotes democracy and encourages people to get out and vote?

The Deputy Convener: Sandra, I should remind you that the convener has already stated that we cannot discuss reserved matters. Mr Bloomer, you do not have to answer any questions about Westminster—or even Scottish Parliament—elections.

Ms White: I am sorry, but I find it strange that even though I am a member of the Scottish Parliament I cannot legislate on when I can have an election. The witnesses can answer whatever questions they wish.

Keith Brown: On your first point, which Mr McMahon also raised, the arguments for and against simultaneous elections are not mutually exclusive. Our fear about such elections—which is that local elections will be submerged by national elections—also holds if local government elections are held in between general elections. I accept

that.

The difficulty is that local government is not deemed to have sufficient autonomy. Such a situation came about before the Scottish Parliament was created. Local politicians of all parties pointed out that, given the extent of control over local government finance and issues such as hypothecation and ring-fencing, it was inevitable that people would start to see local government issues that are important to them being decided nationally. That underlying problem will remain whether local government elections are held mid-term or at the same time as national elections, but the problem is exacerbated if all elections are held on the same day—it almost completes the whole process in people's minds. Mr McMahon was quite right to say that this is not a zero-sum issue.

You asked whether the solution is just short term. It is perhaps not short term, as it seeks to do things that should be done—even though I obviously disagree with one or two of those measures—but it does not address the fundamental problem of the autonomy of local government. As democratic theory shows us, in competing in a pluralist society with different levels of government, local democracies will inevitably have competing mandates. It is true across Europe that democracies with their own mandates act as a check and balance on other levels of government. I do not think that we have that in Scotland or, possibly, across the UK. One level of government is tightly controlled—almost uniquely so, perhaps with the exception of France—by another.

I agree that PR should be a feature. The debate is long-standing. I attended the first debate in the Scottish Parliament when McIntosh was debated. At that time, many people in local government had, like me, high hopes that there would be real progress on some of those issues. The subsequent Kerley and MacNish commissions have disappointed a number of people in that respect. I support PR, although I am not sure that Keir Bloomer, as returning officer, holds the same view—he might do.

There is a lot of scope in the pilot schemes. I think that the evidence suggests that supermarket voting and voting on different days—voting in advance—will not make a great deal of difference, although I have no objection to their being tried. I would go back to all-postal voting, but it is just a palliative—it means that people do not have to travel to the polling station to cast their vote.

We have all campaigned and canvassed before. I remember canvassing on a Thursday night for the European parliamentary by-election for North-East Scotland. It was the middle of November and it was pouring with rain. I think that the turnout was 21 per cent. In Balfron in Stirlingshire, there was

an election that same day for the entire community council because there was one vacancy—it is a single-transferable-vote system. The turnout in one community council in the west of Stirlingshire was 44 per cent at the same time as the turnout for a European parliamentary by-election was 21 per cent. There is a lesson in that on postal ballots.

Electronic voting was tried by West Lothian Council. Electronic voting can work if it is taken to the home of the person who casts the vote, but West Lothian Council found that just providing it in a polling station did not produce a great deal of difference in turnout, although the count was certainly delivered much more quickly.

16:30

Keir Bloomer: I have one point to add to that from the perspective of a returning officer.

I, too, welcome the pilots and would be perfectly happy for the pilots for any of the different kinds of election to be undertaken. However, holding simultaneous elections by different systems is difficult for returning officers, particularly if the systems are complex. If we are seriously interested in trying diverse techniques—which I would welcome—that argues for keeping the elections separate.

The Deputy Convener: Before you came to the meeting today, the Deputy Minister for Finance and Local Government was here. He said that there is continuing negotiation about trying to bring closer together the different procedures for the two types of election.

Tricia Marwick: When the minister was here, he suggested that a higher turnout in local government elections would confer greater legitimacy on the councils and that it would not be sustainable for local government to be elected with a 40 per cent turnout while the Scottish Parliament was elected, say, with a 60 per cent turnout. He suggested that the 40 per cent turnout conferred less legitimacy than the 60 per cent turnout.

If the object of the exercise is to inflate the turnout artificially, do you agree that we should be considering a bill to make it a legislative requirement for everybody to vote? If that is not the objective, what level do you suggest local government needs in order to have the legitimacy that the minister implies it does not have at the moment?

The Deputy Convener: Although that is not within the scope of the bill—nor is PR—I am happy for you to answer it, if you can be brief.

Keir Bloomer: Personally, I do not reach that conclusion. I do not favour compulsory voting. The 43 per cent of the public who chose not to vote at

the general election delivered an important message and there is some evidence that that message is being listened to. Indeed, the passage of the present bill—albeit for a different set of elections—through the Scottish Parliament is evidence that there is rightly genuine concern about the extent to which a significant section of the populace feels alienated from the process. Those people have the right to make that point.

Tricia Marwick: So you agree that a 100 per cent turnout is not necessarily the objective? Local government must be relevant enough to encourage people to come out and vote for it in the first place.

Keir Bloomer: That is the point that Keith Brown and I made. Local government must have a credible independent democratic mandate and it will obtain that, ultimately, by being seen by voters as an important aspect of the government structure. That brings us back to the autonomy of local government, its control over its own finances and so forth.

The Deputy Convener: No one would disagree with your previous statement.

I will ask about practical difficulties. You said that you think that only minimal advantage would be gained or that only a small difference would be made and that the procedures for the two elections could be brought closer together. If the elections are held on the same day, are there any other difficulties—with when the count is held, for example?

Keir Bloomer: If the Parliament decides to hold elections simultaneously, and if voting methods diverge as a result of the piloting exercises, it will be important to address the issue that you touched on. Candidates, broadcasters and others might not welcome it, but we could operate two radically different systems simultaneously only if we were given the time to do so. That would have implications for the holding of the poll and the amount of time that was allowed before the count commenced. In such circumstances, I would not like us to continue to count the votes immediately after the close of poll. At the very least, I would like the count to be deferred to the following day.

The Deputy Convener: Do you wish to comment on any other practical aspects?

Keir Bloomer: No. We have covered all the points that we wanted to.

Tricia Marwick: Does it concern you that alternative ways of voting may present a greater capacity for personation? Should that be considered carefully in the pilots?

Keir Bloomer: Yes. The security of the system is important. That is not confined to voting. The ever expanding possibilities of the internet, for

example, mean that verification of identity is becoming a critical concern in many fields. Perhaps the way in which we resolve that in one field will help in another. You are right. If we artificially boost numbers by letting many people vote two or three times, that will not be a triumph for democracy.

Mr McMahon: It is right that we have a debate about the whys and wherefores of different forms of voting, the timing of elections and all the matters that we have discussed today. The closing sentence of the covering letter to your submission says:

“The underlying issues will not be addressed by a measure designed to manipulate voters in such a way as to produce a spurious increase in turnout for local elections.”

Do I read that right? Do you believe that the bill is an attempt to manipulate voters?

Keir Bloomer: I do not believe in understating the case in these circumstances. An element of manipulation exists, because the bill attempts to give local government credit for pulling out voters who have gone to the polls to vote for a different purpose and for a different democratic forum. To that extent, the bill represents an attempt at manipulation—not a discredibly motivated attempt, but manipulation nonetheless.

The more important point is at the tail-end of that sentence, which mentions a “spurious increase in turnout”. If people cast a vote in their local council election only as a by-product of being in the polling place to vote in the Scottish Parliament election, the increase in turnout that is secured is spurious.

The Deputy Convener: I thank Keith Brown and Keir Bloomer for attending.

Subordinate Legislation

Firemen's Pension Scheme (Pension Sharing on Divorce) (Scotland) Order 2001 (SSI 2001/310)

The Deputy Convener: The next agenda item is consideration of a Scottish statutory instrument. The instrument is subject to the negative resolution procedure. It was sent to members on 21 September—I am sure that members remember—and no comments have been received.

The instrument was considered by the Subordinate Legislation Committee and an extract of its report is included in the meeting papers. The Subordinate Legislation Committee considered that the attention of Parliament need not be drawn to the instrument. No motions to annul have been lodged and no other action can be taken on the instrument.

Assuming that no one has any comments on the instrument, I will put the question. Do members agree that the Local Government Committee has no recommendation to make on the Firemen's Pension Scheme (Pension Sharing on Divorce) (Scotland) Order 2001 (SSI 2001/310)?

Members *indicated agreement.*

16:41

Meeting continued in public until 16:42 and in private thereafter until 16:43.

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