

LOCAL GOVERNMENT COMMITTEE

Tuesday 11 June 2002
(*Afternoon*)

Session 1

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2002.

Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Tuesday 11 June 2002

	Col.
ITEMS IN PRIVATE	3047
SUBORDINATE LEGISLATION	3048
Local Government Finance (Scotland) (No 2) Order 2002 (SSI 2002/230)	3048
LOCAL GOVERNMENT IN SCOTLAND BILL: STAGE 1	3050

LOCAL GOVERNMENT COMMITTEE

17th Meeting 2002, Session 1

CONVENER

*Trish Godman (West Renfrew shire) (Lab)

DEPUTY CONVENER

*Dr Sylvia Jackson (Stirling) (Lab)

COMMITTEE MEMBERS

Mr Kenneth Gibson (Glasgow) (SNP)

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

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

*Elaine Thomson (Aberdeen North) (Lab)

Ms Sandra White (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Robert Brown (Glasgow) (LD)

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

John Young (West of Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Peter Peacock (Deputy Minister for Finance and Public Services)

WITNESSES

Bill Anderson (Forum of Private Business Scotland)

John Downie (Federation of Small Businesses in Scotland)

John Kilgour (Federation of Small Businesses in Scotland)

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 11 June 2002

(Afternoon)

[THE CONVENER *opened the meeting at 14:01*]

The Convener (Trish Godman): Okay comrades, we will start. Tricia Marwick is here.

Tricia Marwick (Mid Scotland and Fife) (SNP): I am here as a substitute for Sandra White.

Items in Private

The Convener: Agenda item 1 is to ask the committee to agree to take agenda items 4 and 5 in private. Item 4 is to consider our conclusions to our "Renewing Local Democracy" inquiry; we certainly do not want the Executive to know what we are going to say about that. Item 5 is to agree on the wording of a draft motion for the forthcoming debate on the local government finance inquiry. Again, I am not terribly keen for the Executive to know what it is in for. Even though the committee has a reputation for taking rather a lot of items in private, do members agree to take items 4 and 5 in private?

Members *indicated agreement.*

Subordinate Legislation

Local Government Finance (Scotland) (No 2) Order 2002 (SSI 2002/230)

The Convener: Item 2 on the agenda is subordinate legislation. The order is to be considered under the affirmative procedure. I welcome the Deputy Minister for Finance and Public Services, Peter Peacock, and Nikki Brown, who is from the local government finance and performance division of the Scottish Executive finance and central services department.

I will allow a short time for the minister to give evidence on the order and for members to ask questions, but only for clarification or explanation. During that time, questions may be addressed to the minister, who can decide whether to answer them or to call on his officials to answer. I will then open the debate. The minister will read his statement and, at the end, move the motion. We will then have an open debate, during which I will call committee members who wish to speak for or against the motion. Finally, I will put the question on the motion. The procedure should be clear by now, because we do it regularly.

I ask the minister to give his evidence.

The Deputy Minister for Finance and Public Services (Peter Peacock): Thank you, convener. I will be brief, but no matter how brief I am, I suspect that we will not see the end of the Ireland v Saudi Arabia football match.

As members know, ministers have promised to commit the necessary resources to implement free personal care and nursing care for older people, to support the increases in care home fees, to implement the national concessionary fares programme and to improve debt advice services for some of our most vulnerable people.

We have consulted the Convention of Scottish Local Authorities about all those matters. The order will give effect to the allocation of the additional resources that we seek to apply to all those matters. The order does so technically by revoking the Local Government Finance (Scotland) Order 2002, which Parliament debated on 31 January, and replacing it with an order that incorporates the increased allocation of revenue support grant.

I will be pleased to answer any questions.

The Convener: There appear to be no questions from members. I ask the minister to add anything that he wishes to add and formally to move the motion.

Peter Peacock: The points that I have just made carry into this part of the process. As I indicated, the resources are for free personal care, nursing care, the increases in care home fees, the implementation of the concessionary fares programme and improved debt advice. The order will deliver on our promises on those matters. The order is in addition to a settlement that gives grant increases of twice the rate of inflation to every council and increases local authorities' revenue grant by about 11.3 per cent. I am pleased to seek Parliament's approval for grant allocations to local authorities as set out in the order.

As I indicated, the full agreement of COSLA to the allocations has been obtained. I commend the order to the committee.

Motion moved,

That the Local Government Committee recommends that the Local Government Finance (Scotland) (No 2) Order 2002 be approved.

Motion agreed to.

Peter Peacock: I might, after all, see the end of the football game.

Local Government in Scotland Bill: Stage 1

The Convener: The third item on the agenda is our stage 1 consideration of the Local Government in Scotland Bill. I welcome again Colin Mair, who is our adviser on the bill. I also welcome the Forum of Private Business Scotland in the form of Bill Anderson, who is the campaign manager. I think that you have been here before, Bill. You know the drill, which is that we ask you to speak for a few minutes and then I will open it up to my comrades for questions.

Bill Anderson (Forum of Private Business Scotland): Thank you for this opportunity. As requested, we have restricted our comments to the general principles of the bill. First, as voters and citizens, our members have concerns about how local government is elected and how it operates. However, as a business organisation, we are mandated to comment only on matters that concern local businesses.

Secondly, business rates remain the prime concern for our members. Every quarterly survey that we have done since 1998 has indicated that business rates are our members' prime concern. We are opposed to any move to return control of rates poundages to local authorities. Recent experience shows that some councils behave responsibly towards local businesses but other councils do not. In addition, the application or the withdrawal of the central grant led to distortions that further discriminated against businesses in particular local authority areas.

Thirdly, we believe that the tendering process for local contract work should be fair and should not discriminate in favour of council departments against outside tendering. We understand concerns that quality may sometimes have been sacrificed for lower costs, but we think that the best-value criteria may be too loose. We urge that the process be closely monitored and reviewed annually. We will see how things work in practice.

Fourthly, we believe that it is in the interests of the local community that local businesses should be given some preference in getting contract work from their council. We have four alternatives by which that can be done transparently—that is, not through the old boys' network—but there may be other ideas. A percentage of contracts could be set aside to be placed with local companies; all smaller contracts—for example, contracts under £75,000—could be allocated to local businesses; a local company could be allowed to get a contract if it came within 5 per cent of the lowest tender; or a local company could be allowed to retender if it came within 5 per cent of the lowest tender.

Fifthly, although control of business rate bill levels should be retained centrally—we prefer a UK-wide level playing field and the same uniform business rate to be paid here as south of the border—it should be remembered that local authorities and local businesses have many common concerns. We believe that councils and local businesses should work in partnership and we support any moves towards that.

The Convener: Before I catch members' eyes, I will kick off with a general question. Are there any key additions or modifications that you would like to make to the bill?

Bill Anderson: Not really. We attended quite a long meeting at Victoria Quay with the chambers of commerce and went through aspects of the bill in considerable detail, which is why we have not opposed best value, for example. We think that things should be seen in operation and reviewed. The committee and the Executive have some good ideas and we do not have much to add, although the committee might give us some ideas.

Mr Keith Harding (Mid Scotland and Fife) (Con): Is the repeal of compulsory competitive tendering the right way forward?

Bill Anderson: There is a question mark over that. We understand that lowest cost is not necessarily the only criterion that should be taken into account and that quality, too, must be taken into account, but we have doubts about the best-value criteria. They look loose and do not seem firm enough. We think that things should be considered in practice.

Mr Harding: You suggested setting aside a percentage of contracts to be placed with local companies. Is that legal under European Union competition requirements?

Bill Anderson: I do not know. I put the proposal to the committee for consideration. I am not a lawyer. It might not be legal, but we thought of four ways in which local businesses might be given preference. There are strong arguments for trying to keep some work locally. Doing so creates local employment, helps local businesses and stimulates the local economy. If the proposal is not legal, I am sure that we can find an alternative from our other proposals.

Mr Harding: You also suggested allocating all smaller contracts to local businesses. What do you consider small? You mentioned contracts under £75,000, which seems a relatively substantial amount. Are you saying that every contract under £75,000 should be given to small businesses?

Bill Anderson: In Europe lately, the figure of £65,000 has been used, which is about €100,000. You may be right. I simply postulated £75,000. A newspaper pressed us about the issue yesterday.

Mr Harding: I have doubts over whether the suggestions given in 4(c) and 4(d) of your written submission would be legal. Would those proposals be compatible with best value for local communities?

14:15

Bill Anderson: The suggestion given in 4(d) would certainly be compatible with best value. Under 4(d), the suggestion is that, if a local company comes within 5 per cent of the lowest tender, it should be allowed to retender. Basically, the local company would then bring down its price to that of the outside company. The local authority would therefore finish up paying the same price. I concede that, under 4(c), the authority would need to pay 5 per cent more, but against that must be balanced the beneficial impact on the local economy.

Mr Harding: Would that not be open to challenge by the company that made the lowest tender the first time? One would need to use confidential information to tell the local company what it should bid.

Bill Anderson: That depends on the rules that are set. The company that made the lowest bid would not be able to make a challenge if suggestion 4(d) were adopted. If a local company were prepared to bring down its price for a contract by 5 per cent, that would benefit not only that company but the local economy. That would happen at no cost to the ratepayer or to the council tax payer.

Mr Harding: Those of your competitors who are not local businessmen will ask why local businesses should be given preferential treatment. Why should they?

Bill Anderson: I have given the answer to that. Local businesses help to stimulate the local economy. The contracts are paid for by local money and by local council tax payers. We want to keep some of the benefit of the work within the local economy to stimulate the economy rather than give the benefit to companies that are based hundreds of miles away. The argument is that allowing local companies to retender would stimulate the local economy. Companies from elsewhere would have the same benefit in their own area.

Iain Smith (North-East Fife) (LD): Do community planning provisions take sufficient account of business needs and of aspects such as the costs of involvement?

Bill Anderson: No, they do not always take sufficient account of business needs. Much closer liaison with business is needed. I know that Iain Smith served on a council that had quite close

relationships with business. It is important that such relationships are maintained. That is why we put that section in our written submission. There needs to be regular contact between councils and businesses so that, if criteria are not being met or if there are misgivings, those issues can be addressed.

One thing that I have regretted over many years is that we dropped rates consultation in Scotland. Members may recall the days of rates consultation, when businesses and local authorities were forced to speak to each other. When the UBR was introduced, rates consultation was dropped in Scotland but continued in England, despite the fact that it had been far more successful here. The liaison between councils of all complexions and business improved while there was rates consultation and it is unfortunate that that was dropped.

Iain Smith: Would small businesses and the local business community have the time to participate fully in community planning?

Bill Anderson: Businesses never have the time for anything. We are always against deadlines. Life is very full, but there are people who are prepared to give their time. If there is to be some liaison on planning and other matters that affect businesses and the general economy of the area, some businesses will be philanthropic enough to give their time to sit down with the council and improve relations.

Iain Smith: Is there anything that councils or the Scottish Executive could do to facilitate the involvement of small businesses in the community planning process?

Bill Anderson: Let us talk about businesses generally rather than only smaller businesses. Big businesses also have every right to be represented. Our organisation represents small and medium-sized enterprises. In rural communities, medium-sized enterprises can be quite big in the local community. All businesses need to be involved, perhaps through informal groups.

Although the rates consultation that I mentioned stopped, some councils continued with it for some time. I remember that the council in Glasgow continued with it. Also, the old Grampian Regional Council continued to liaise with businesses. Grampian Enterprise was set up under your colleague Nicol Stephen to liaise with businesses. It would be good if such links could be encouraged officially. Relationships will differ in different council areas and will depend on good will.

Elaine Thomson (Aberdeen North) (Lab): You have spoken about a liaison committee. Where would local economic forums fit into that arrangement? Local economic forums were set up

precisely to bring together local councils, enterprise agencies and businesses.

Bill Anderson: One problem with local economic forums is that their boundaries do not coincide with local authority boundaries, except in one or two areas such as the Borders. Perhaps local economic forums are the best vehicle for liaison. Elaine Thomson represents Aberdeen, but Aberdeen is not Grampian and Grampian is not Aberdeen. Where does Moray fit in? In any case, we have doubts about the role of local economic forums. Local enterprise companies should already be representing local business. If they are failing to do that, why should we set up forums to support them? Councils are elected not by businesses but by people, some of whom are in business. It is important that councils should liaise with local businesses.

Elaine Thomson: The local economic forum in Aberdeen and Aberdeenshire is working extremely effectively.

Bill Anderson: I am glad to hear that.

Elaine Thomson: The forum is effective in bringing together local government and business.

Bill Anderson: The situation may not be the same in the rest of Scotland.

Dr Sylvia Jackson (Stirling) (Lab): Does the Forum of Private Business have concerns about the power of well-being? Do you think that it may undermine the business community? What protections need to be put in place?

Bill Anderson: Like best value, the power of well-being could undermine the business community. We may find that it does so when it is in operation. The intention is good, but in practice there may be problems. I am not sure what protections could be put in place. There is no doubt that reforms to local government are needed. If we find that we have done the wrong thing, we need to be able to backtrack out of the situation, to monitor it or to improve it. It is very difficult to be sure whether the arrangement that we are putting in place is better than the one that it will replace. That takes me back to Keith Harding's point about CCT.

Dr Jackson: In point 3 of your written submission, you say that tendering

"should be fair and should not discriminate".

In response to Keith Harding's question, you said that best-value criteria were too loose. In what ways do you think that they are too loose?

Bill Anderson: I am a former professional engineer. In engineering we define quality very precisely. After we have set limits to which an object will be machined and have described how it will perform, we tender to that quality standard. In

theory, that should have happened with compulsory competitive tendering, but it appears not to have done so—perhaps because definitions of quality standards have been too loose, or perhaps because things are nice and simple in engineering but not quite so nice and simple in repairs to council houses or holes in the road. It may be that we have gone for cheapness rather than quality. Had the criteria been properly defined, there might have been no need for change.

We do not appear to have redefined the criteria very tightly. When we sat down at Victoria Quay and went through matters with the local government division, I found it difficult to understand the criteria. They may be all right, but we will have to monitor them and be ready to accept that there may be flaws to be sorted.

Dr Jackson: Would you like guidance to be put in place to tighten up the criteria?

Bill Anderson: We considered that but could see no simple answer. We simply make the point that the criteria may be too slack. In using their discretion, some councils might go against outside tendering. That worries us slightly, but it might be that, in practice, everything goes perfectly well. We would be delighted to be the first people to acknowledge that.

Dr Jackson: You mentioned monitoring. As I understand it, local authority performance in contracting will be audited annually. Are you suggesting that something further should be done?

Bill Anderson: I do not know how thorough that auditing will be, so we have simply highlighted a possible problem. If the auditing is satisfactory, that will be fine. However, things will have to be considered much more closely than they have been in the past.

The Convener: In paragraphs 2 and 5 of your submission you mention your position on the non-domestic business rate. As you will know, the Local Government in Scotland Bill does not deal with that.

Bill Anderson: Yes, I know.

The Convener: That is why you have not been asked any questions on that topic. The committee dealt with it in our inquiry into local government finance.

Bill Anderson: We thought it worth while to make the point all the same.

The Convener: Thank you for coming today. If there is anything that we want to clear up, we will write to you.

Bill Anderson: Thank you very much indeed.

The Convener: As we allow our next witnesses a moment to come to the table, I note that although I do not know the final score of the Ireland v Saudi Arabia world cup match, the Irish obviously won because we can hear them outside and they are enjoying themselves.

We welcome the Federation of Small Businesses. John Downie is its Scottish parliamentary officer and he has been here before. John Kilgour is the chairman of the FSB's local authority sub-group. They know the drill. We will have a presentation from John Downie after which I will open up the meeting for questions.

John Downie (Federation of Small Businesses in Scotland): Thank you, convener. The committee has our written submission of the points that we would like to be considered. Anything that we could add to that in a presentation will be covered by questions anyway, so we are happy to go straight to questions.

The Convener: Part of your submission on trading powers notes the "Potential to be anti-competitive". Why do you say that? Does the bill not anticipate the problem by dealing with the cap on commercial income?

John Downie: A number of the issues that were traditionally involved in compulsory competitive tendering led to our thinking. We considered anti-competitive behaviour and, when we first saw the proposals for the bill, we were concerned about the trading powers that it proposed to give local authorities, as those powers had the potential to allow local authorities to enter any business sector, set up any type of business and trade in any way. We accept that the bill has moved on and that limits have been introduced, but we must be careful, because local authorities do not exist to create businesses or employment—they exist to deliver public services. We are concerned about that.

The first point about trading powers that we make in our submission is that the Scottish Executive has set job and business creation standards for the enterprise agencies, but if local authorities also create businesses, they will take on the private sector's role of creating businesses and profits, which will lead to the creation of jobs. We are concerned that local authorities will enter business areas that they have not entered before, which has the potential to place them in competition with the private sector when there is no need for that to happen. That may also lead to cross-subsidy issues and later in our submission we refer to the costs that private sector businesses face in comparison with costs to local authorities.

14:30

John Kilgour (Federation of Small Businesses in Scotland): I concur with most of what John Downie said. I am concerned about local authorities and other bodies in Scotland. We should recognise the fact that although they provide services, they are also running a business to a large extent. If a charge is made for those services, the charge must be competitive, even where the local authority is the dominant provider of a service that no one else can provide. I am thinking of planning and other services that particularly affect rural businesses. Planning has become very expensive. We have discussed—although not with the committee—whether those costs could be examined and reduced. We believe that there should be a burden on councils to keep their costs within what might be described as reasonable limits.

John Downie: That leads on to the anti-competitive issue, because councils can act as monopoly providers for planning applications and the other licensing matters that businesses, such as taxi firms, have to deal with. Local authorities can set fees at whatever level they wish to set them at.

The Convener: I will move on to another point about trading powers. In your submission, you talk about the “appropriate configuration” of trading activities. How would baselines be established? What would the sector comparisons be in areas such as catering, cleaning or facilities management?

John Downie: You ask about the baselines and about which areas local authorities can trade in. I want to be clear that we do not need laws that are open to interpretation—we need a clear framework for the supply of goods and services by local authorities. That is why we stress financial and commercial limits. The baseline has to be appropriate trading behaviour. As John Kilgour said, local authorities should trade only in those areas, such as planning and licence applications, in which they have clear control. They should not get into areas in which the private sector already provides a service.

For example, local authority catering organisations that compete in the film industry are able to offer lower rates than private sector operators because of cross-subsidy. They can undercut the private sector because the costs are incurred not by the catering part of the local authority but by the local authority as a whole. Commercial businesses are being undercut by local authorities simply because the property and staff costs are different. Administration and wages costs, which businesses have to meet every day, are covered elsewhere by the local authority. The local authority catering organisation will not face

the same bureaucratic, red-tape and regulatory issues that a normal business has to face. Clearly, we must establish the baselines and the areas in which local authorities can trade.

We do not have an issue with local authorities that provide leisure activities, such as sports centres, swimming pools and the like. We are concerned about what happens when a local authority competes directly with the private sector in an area that does not involve the provision of a public service or amenity.

The Convener: Do you have evidence of that? I want to return to what you said about catering. I understand what you said about not being involved in leisure centres, but—

John Downie: There are numerous examples of local authority trading organisations competing with private sector organisations. The film industry is one example of an area in which Glasgow City Council catering department competes. We have less of a problem with local authority trading organisations that compete on a level playing field. We also have less of a problem if those organisations operate as separate businesses that incur the same costs as private sector businesses.

The problems start to arise when local authorities take on the costs that are incurred by local authority business organisations. Those costs are not charged as direct business costs nor are they infrastructure costs. That allows local authority trading organisations to gain a competitive edge. It may be small, but it is enough to win contracts.

John Kilgour: I want to support what John Downie said. One example is the hospitality sector, which over the past year has become quite big business. Local authority trading organisations invariably win contracts for a large number of the functions that are held on the local scene. That is because they are by far the cheapest organisations in the area.

Another example is the service provided by what were roads departments, which are now part of commercial services. Those departments can offer tarmacadamming and a range of services more cheaply than the commercial sector.

Tricia Marwick: You suggest that charged services, such as planning or taxi licensing, should be deemed to be a trading activity. Why is that the case? Is there not a reasonable distinction between cost recovery and charging to generate a return over cost?

John Downie: There is scope for a genuine distinction between the two. However, at present, the charges are set at more than cost recovery. If a service is charged, the local authority is, in effect, operating as a business, and the charge

should fall under the provisions of the trading account.

The big issue is the charges that local authorities are setting. As John Kilgour said, where the local authority is the monopoly provider, the cost of planning applications has risen considerably over the past few years. People have no commercial alternative to the local authority.

Where local authorities are charging more than the cost of recovery and the money is used to supply closed-circuit television cameras for town centres, the local business community might see that as a transparent transfer of profits for a specific reason. The business community might be happy if CCTV, or another service, was needed in the town centre. We do not take issue with local authorities that add more than recovery costs to subsidise other essential public services. We take issue with the fact that there is no transparency or openness at present on that issue.

Charges are being levied at more than the cost of recovery. If charges were to fall within the trading provisions of the bill, that would allow for transparency and accountability.

Tricia Marwick: Do you have evidence of big differences in the charging regime of local authorities throughout Scotland?

John Downie: As John Kilgour said, charges have risen over the past two years, particularly for planning. It now costs nearly £2,000 to make a planning application.

John Kilgour: The cost that the applicant pays to the council for a planning application is not excessive, but it costs about £2,000 to prepare the drawings and make the submission. A few years ago, the planning authority used to help applicants to submit their application. We should be clear that the fact that it is no longer possible for an applicant to submit a planning application is the result of legislation; it is not the fault of the local authorities. Applicants now have to bring in somebody who has the expertise to make the application.

As I said, it costs a small business about £2,000 to make an application for a relatively minor extension to their business premises. People have about as good a chance of winning the lottery as they do of getting planning permission. There is a problem with the cost of getting such permission.

Tricia Marwick: I want to press the witnesses on that. On the one hand, you are saying that local authority charges for planning applications are high, but on the other hand, you seem to be suggesting that the cost to business comes from the preparation of the drawings and the plans, before the application even gets to the local authority.

John Kilgour: That cost arises, but the fact of life is that local authorities' regulations must be complied with.

Tricia Marwick: Are you saying that local authorities do not overcharge?

John Downie: Some authorities overcharge. In 1999, when the Federation of Small Businesses gathered information in preparation for its submission to the committee on business rates, we found that the charges for information from councils varied widely. To be fair to Glasgow City Council, its charge for information on rateable values was around £100, whereas another council attempted to charge us £1,500. Chartered surveying firms that operate throughout the country will confirm that there is a wide variation in the cost of information on rateable values. The information is also provided in a wide variety of formats; it can come in a thick bundle of paper or on a CD-ROM. Some authorities are competitive and run a genuinely good service for businesses, but we want more transparency and more competitive pricing throughout the country.

Tricia Marwick: Should all internal charged services be defined as trading activities?

John Downie: Yes.

Tricia Marwick: Apart from planning services, taxi licences and the provision of information on rateable values, what other internal services should be defined as trading activities?

John Kilgour: Commercial services that do not operate on an authority's premises should be defined as trading activities. Commercial services can tarmac a private drive. Some estates in Dumfries and Galloway have the roads through the estate done by the council because that is cheaper than having it done by a private company, although, by gosh, I do not decry the standard of work; councils do the work well.

The Convener: That confuses me. I did not think that councils could do driveways.

Tricia Marwick: I am at a loss for words, too. I was not aware that councils did driveways.

John Kilgour: As a semi-retired builder, I am in direct competition with the councils, so I know about that matter.

Tricia Marwick: It would be useful if you would provide background information on that issue to allow us to consider it further.

John Kilgour: That is not a problem.

Mr Harding: Is the repeal of CCT the right way forward?

John Downie: Yes.

Mr Harding: In your written submission, you suggest that the power to advance well-being must be used to promote local businesses. In what way should the new power be used?

John Downie: People forget that the business community is part of the local community. For example, there was no genuine private sector representation on the community planning task force. Given the importance of community planning, we are afraid that the private sector and local businesses will not be involved in the discussions or in considering local issues that must be addressed. Local authorities are the base provider of the majority of infrastructure services, which include access and safety for local businesses. Such issues are related to local well-being, which should include the well-being of businesses. We do not want the local economy to be left out of the community planning equation.

Dr Jackson: You have already said that you have concerns about the power of well-being. Will you be a little more specific about how that could undermine local business interests? Should the bill contain protection in that respect?

14:45

John Downie: Keith Harding has already raised CCT and best value. Local businesses want the power to compete on a level playing field; they are not asking for any favours or protection. We want to ensure that laws are not open to interpretation and that there is a clear framework for the supply of goods and services by local authorities. That said, there are limits on their trading powers in certain areas. It would be difficult to be totally prescriptive; however, local authorities must consider their local communities. That means that before they enter into any trading area, they must carry out a business impact assessment on the effect of such a move on local businesses. For example, will it affect the turnover or employment of those businesses? We already have regulatory impact assessments for legislation, and the European Commission is moving towards business impact assessments. A fairly simple model and process could be introduced to ensure that safeguards are in place for local businesses and that there is a framework for local authorities to work within. As far as the local community is concerned, the term well-being is fairly ambiguous.

Dr Jackson: Should the term be better defined?

John Downie: I have heard a number of definitions of what people consider well-being to be.

Dr Jackson: How would you like well-being to be defined?

John Kilgour: Let me give you an example, ma'am. On the verge of Dumfries, there is a row of five shops that had five parking places marked out in green on the public highway. McDonald's then started to build an outlet straight across the road, which means that it had to have received planning permission from the council. As soon as McDonald's opened, the five parking places were found to be obstructing vehicles and they were shut. I do not think that that constituted considering the well-being of the business community. The community was not even consulted.

Dr Jackson: I repeat my question. Do you have a better definition of the term?

John Downie: We have thought about the question, but have not yet come up with anything appropriate. We understand that 12 July is the final date for submissions to the committee. We are discussing the issue with members and through the FSB Scottish affairs committee, of which John Kilgour is the chair, in order to canvass as much opinion as possible. I think that there are as many definitions as there are opinions on the matter among our membership.

Dr Jackson: You ask for transparency, prevention of cross-subsidy and so on. If a council is truly commercially competitive, should it be restricted in trading at all?

John Downie: Yes. I return to the first point that we made. The Scottish Executive has set targets for the enterprise network for the creation of small and medium-sized businesses and larger companies. The role of local authorities is not to create businesses or to set up companies to compete with the private sector, but to facilitate and deliver public services. I do not think that creating businesses is a public service, although working in partnership with the private sector to deliver services is a different issue. I accept that local authorities will engage in trading activity, but such activity must be limited.

Iain Smith: I want to find out a bit more about the fees that you mentioned. Most fee levels for planning and other areas are currently regulated; basically, the fees are supposed to cover the costs of providing the service. What further controls do you want on those fees?

John Downie: We do not advocate the introduction of controls. I have already spoken about rating information. There should be a clear, set fee throughout Scotland that is competitive with the fees that have to be paid in the private sector. Our main concern relates to situations in which the local authority is a monopoly provider, although I accept that such provision is regulated. The level of fees should be clear and should not exceed recovery costs by more than a fixed

amount. We are happy for local authorities to recover fees and to make a profit on that, if the money is within trading provisions and is used to provide, or to help deliver, other essential public services. Local businesses' concerns relate mainly to the transparency of the process and to fee levels.

John Kilgour: An average bungalow will involve a contract of up to £30,000-odd. The planning fee will be about £150, which is not excessive, but the building warrant fee will be in the region of £800 to £900. It is generally accepted—no one is prepared to give me proof of this, although that is not for want of my asking—that building control is profitable and could be run as a business on its current fees. However, some money is used to support planning work, which is not covered fully by the fee of £150-odd.

Iain Smith: Do you think that small businesses and the local business community will have sufficient time to participate fully in the community planning process? If not, what additional support will they need to facilitate their involvement in the process?

John Downie: Recently we met Alice Brown, who chairs the task force that is dealing with this issue, to discuss the engagement of the private sector in community planning and the time that is available to small businesses to take part in it.

Small businesses will participate when they see the benefits of the process to the local community, especially the local business community. The Federation of Small Businesses has a representative on every local economic forum. We made it clear to our members that, each week, participants in local economic forums would be required to give up four hours of their time, which is a big commitment for a small businessperson. However, people could see that the forums had a role in cutting out confusion and duplication in business support services. They could see the purpose and objective of the forums, and were prepared to spend time participating in their work.

If we set out clearly the local vision and objectives of community planning, businesses will participate in the process. Their participation may relate to individual projects that have a set time scale. However, we need to explain to the business community the scope and scale of its involvement in community planning. We may be able to use local economic forums as a source of economic input into the community planning process on an on-going basis, as the federation, the chambers of commerce and other private sector interests are represented on forums. However, forums cannot be the only source of such input, and it will still be necessary for us to engage more directly with the local business community. It is important to indicate to

businesspersons how community planning will benefit the local community and their business.

John Kilgour: Community planning is the most important new development that we face. The trouble with community planning as it stands is that none of the material that is churned out in Dumfries and Galloway, or that comes across my desk from other places, refers to business as part of the community. When I tell people in the business community that they need to take an interest in community planning and to have representatives attend community planning meetings, because business is part of the community, they ask me why they should bother, given that business does not feature in any of the literature that has been produced. That has been a problem for a long time. There will have to be a change in community planning: it needs to be more outreaching to encompass the whole community rather than certain sections of it.

Iain Smith: You have outlined the problem with the current arrangements, which is useful. It would not be appropriate for a public bill to place a duty on businesses to be involved. Perhaps the literature reflects the public duty of the public bodies. To assist businesses, what improvements would you like to see to the community planning arrangements?

John Downie: The guidance on the bill could have a clearer definition of the private sector. That would have to have a framework—one could not define the private sector as the Federation of Small Businesses, the chambers of commerce, the Confederation of British Industry, the National Farmers Union or whatever. We do not want a tick-box approach, whereby someone speaks to someone else, say the FSB, and the box for taking on board the private business view is ticked. We do not represent everyone in the local business community, which contains a range of diverse opinions. We need a framework within the guidance to define the private sector.

Implementation of the bill—how local authorities go out and engage with the local business community—is key. We will have on-going discussions with the task force to put together guidance on that and to think of creative ways to take it forward. As John Kilgour said, it is extremely important that the business community is involved. It is a partnership. The business community must give its time and get involved and we must stimulate the business community to be involved.

Iain Smith: Your submission mentions the need for national oversight. The community planning task force already has that national oversight. What further oversight would be appropriate?

John Downie: As we understand it, the community planning task force has a shelf-life of two years. The evolution and implementation of community planning will take a long time beyond that. Certain areas will need a push from the centre to adopt best practice, so there is a need for a body to gather best practice and disseminate it.

If we consider the example of local economic forums, the Executive's central support unit has been good at pushing forward the implementation of the LEF action plans. We will need someone to give a push to the implementation of the community planning legislation. Much of that should be carrot rather than stick, but it should help to put together good practice. Perhaps the task force could have a role in overseeing the first couple of years of implementation. We should recognise that implementation might be difficult and that some areas will need a push.

Elaine Thomson: Your submission suggests that the provisions on best value could place a disproportionate burden on small businesses, particularly in relation to employment practices. Could you expand on that?

John Downie: Best value is an evolutionary process, which is still in a transition period. The feedback from certain areas has been that a lot of outsourcing and partnerships between local authorities and the private sector are working effectively. However, local authorities will have to take into consideration the employment practices of those organisations, take employment statements and so on. That is all well and good for a large company, but it would put a significant administration burden on small businesses.

Small businesses must comply with health and safety and environmental health regulations, and their staff have a contract of employment. It is unfair to ask small businesses for a statement of their equal opportunities and fair employment practices. Small businesses practise such things, but they do not necessarily have written statements on them.

We are concerned that there will be potential for additional burdens that will affect small businesses disproportionately and get in their way when they compete in the tendering process. A medium-sized or large company with a personnel officer or human resources officer can easily draft statements on such issues and turn them round quickly. We are also concerned that local authorities might attempt to promote social policies through the tendering process, which should be about the delivery of services, not about ensuring good employment practice. That is not a local authority's role.

15:00

John Kilgour: My only comment on best value is the same as on well-being: they are lovely words, but they can mean different things to you from what they mean to me. It will take a little time to get the ideas wedged into place. Each council will decide for itself within its own parameters what best value is.

I do not have quite the same fears about best value. However, John Downie is right that it is open to abuse, although that is probably the wrong word. It is open to different interpretations of what best value means for a particular area.

Elaine Thomson: The bill provides that non-commercial considerations should not impact on the ability of a contractor to fulfil a contract. That is what you are talking about.

John Downie: It is. However, we still wanted to raise the issue, because we were concerned about it. As with all such matters, it is about compliance and interpretation. We have seen that. Problems arose with compulsory competitive tendering and other matters. Our concern is about what is open to interpretation. We would rather be clear and make the guidance more specific.

Dr Jackson: You mentioned employment practices and small businesses having to have statements available. Could not supporting small businesses in that way be part of the FSB's role?

John Downie: We support our membership in that way. Our legal advice line supplies employment advice, and 50 per cent of its 12,000 calls a month concern employment legislation. We advise our members and give them a pro forma contract of employment that they have to adjust for the conditions of their business or sector. We give clear legal advice to our members on a range of issues.

We represent 15,500 small businesses, but there are nearly 300,000 small businesses in Scotland. There are a lot of small businesses that need the same type of advice. We are concerned that the bill might become more of a burden than it should. If a business complies with current United Kingdom employment legislation, that should be sufficient.

Elaine Thomson: We have talked quite a lot about trading powers. In your submission, you suggest that local authorities

"should be required to carry out Business Impact Assessment prior to undertaking commercial activity".

What sort of things should that cover?

John Downie: I will use an example of planning for an out-of-town shopping centre, such as Braehead. I think that the planning legislation states that, if such a development will affect other

town centres by more than 15 per cent—I think that that figure refers to turnover and the profitability of businesses—it should not be given planning permission. When Braehead was granted planning permission, it was said that it would not affect Paisley town centre, but Braehead has devastated Paisley town centre.

The situation is exactly the same with local authorities trading: they must consider the impact on local businesses. If a local authority is in the catering trade, how much will that affect other local businesses? It would be extremely difficult for local authorities to operate, depending on what areas they wanted to trade in. We are saying that everything has an impact on other businesses. Local authorities have to consider how much of an impact their trading will have on the local business community. Such trading might not matter in some areas, but it could have a significant impact in a rural and remote area.

Dr Jackson: You say in your paper that the dialogue between councils and local businesses has to be improved. You suggest that there is quite a long way to go on community planning and that a push from the centre might be required. Do you want to add any comments on the differences between councils and businesses? Is good practice available that could be spread?

John Downie: A lot of good practice is available. The federation has been working with the Executive and COSLA on the enforcement concordat. Our most recent survey showed that members value the advice from trading standards and environmental health departments, which have changed from a policing role to a more proactive advisory role. They help businesses to comply with legislation and make it easier for them. There has been some good dialogue.

Unfortunately, local authority departments tend to work in isolation. Trading standards, economic development and business support departments, for example, tend not to work together. They could work much more effectively to develop local businesses if trading standards passed to economic development the information that a business with potential needs help in other areas.

Local authorities must adopt joined-up working in their relationship with businesses. We must go out and talk more to our local business community. Dialogue is required. We recognise that local authorities are pretty much set in what they have to do. Continual dialogue is required on their priorities, the services that they deliver and the impact that they will have on businesses. That would help to create a better relationship between local authorities and businesses.

John Kilgour: This is a time of change, not only for local authorities but for all of us. We will all

have to talk about the issue. In some areas, we have excellent relations with the council—we do not agree with them, but we have excellent relations with them. The important point is that we are talking. In the case of Dumfries and Galloway Council, there is one annual statutory meeting between all the business representatives and the chief executive, the senior councillors and the department heads. That is an excellent move. People can meet the council representatives at any other time, on request; I am not suggesting that they cannot. However, such statutory meetings happen in few councils in Scotland. Part of my remit is to convince people to talk to the council.

Dr Jackson: You accept, though, that other stakeholders will be involved.

John Kilgour: Of course.

John Downie: Yes. The business community is one part of the wider community. The point about community planning is that it is important not to forget that businesses are part of the community. They are consumers of services and providers of employment. That is sometimes forgotten.

The Convener: Apart from community planning, which we have exhausted, would you like to see any other key additions or modifications to the bill?

John Downie: As we said, we welcome the principles and the policy objectives. Our concerns about the trading powers have been accepted in discussions with the Executive, and it is well aware of our concerns. I do not think that we are too far apart on the key issues. We are close to what we see as a clear framework for the supply of goods and services, which has conditions in place whereby local authorities will not have an adverse impact on the local business community. I feel that that will be achieved through a business impact assessment or the consideration of those issues.

The Convener: Thank you very much. If there is anything that we need to clear up, we will write to you.

We will have a five-minute comfort break before we continue in private.

15:09

Meeting suspended until 15:18 and thereafter continued in private until 16:12.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Wednesday 19 June 2002

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 029 2039 5548 Fax 029 2038 4347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers