SOCIAL INCLUSION, HOUSING AND VOLUNTARY SECTOR COMMITTEE

Wednesday 12 January 2000
(*Morning*)

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SOCIAL INCLUSION, HOUSING AND VOLUNTARY SECTOR COMMITTEE
1st Meeting 2000 (Committee Room 2)

CONVENER:

*Ms Margaret Curran (Glasgow Baillieston) (Lab)

COMMITTEE MEMBERS:

*Bill Aitken (Glasgow) (Con)
*Robert Brown (Glasgow) (LD)
*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
*Fiona Hyslop (Lothians) (SNP)
*Mr John McAllion (Dundee East) (Lab)
*Alex Neil (Central Scotland) (SNP)
*Mr Lloyd Quinan (West of Scotland) (SNP)
*Mr Keith Raffan (Mid Scotland and Fife) (LD)
*Mike Watson (Glasgow Cathcart) (Lab)
*Karen Whitefield (Airdrie and Shotts) (Lab)

*attended

THE FOLLOWING MEMBER ALSO ATTENDED:

Tommy Sheridan (Glasgow) (SSP)

WITNESSES:

Loretta Gaffney (Citizens Advice Scotland)
Paul Gray (Department of Social Security)
Mike Isaac (Child Support Agency)
Marion McFarlane (Department of Social Security)
Susan McPhee (Citizens Advice Scotland)
Mary Prior (Citizens Advice Scotland)
Janice Shersby (Department of Social Security)
John Strachan (Benefits Agency)

COMMITTEE CLERK:

Martin Verity

ASSISTANT CLERK:

Rodger Evans

Scottish Parliament

Social Inclusion, Housing and Voluntary Sector Committee

Wednesday 12 January 2000

(*Morning*)

[THE CONVENER *opened the meeting at 10:01*]

The Convener (Ms Margaret Curran): I formally open the meeting and wish everyone a happy new year—I have seen some members but not others. As always, I extend a warm welcome to members, visitors and our invited guests. People will have noted in the papers that we have a fairly full agenda. As usual, we will plough on regardless. Members should indicate if they wish to speak.

Deputy Convener

The Convener: The first item is the election of the deputy convener. Members will be aware of the procedures and issues that are involved. I think that everybody knows that the matter was raised by the Scottish National party. We will move straight to the appointment of the deputy convener. Can I have nominations?

Alex Neil (Central Scotland) (SNP): I nominate Fiona Hyslop.

The Convener: Are there any other nominations? No.

Fiona Hyslop was elected deputy convener by acclamation.

The Convener: Fiona Hyslop is now the deputy convener of the Social Inclusion, Housing and Voluntary Sector Committee. I congratulate you—in six months you may not wish to be congratulated. I am grateful that we have a deputy convener, as it gives some reassurance in case anything goes wrong with trains or whatever. I look forward to working with you.

There are no particular issues to address now. I am sure that we will return to the matter as we work out how the role will operate.

Abolition of Poindings and Warrant Sales Bill: Stage 1

The Convener: The next item is the Abolition of Poindings and Warrant Sales Bill, which we have been considering for some time. We have speakers from two agencies with us today. I welcome the witnesses from the Department of Social Security. I understand that you have been asked to give a brief introduction. I assure you that we have a range of questions for you.

Paul Gray (Department of Social Security): Thank you for the welcome. I will start by introducing the members of the Department of Social Security team. I am the group director, based in DSS headquarters and responsible for issues relating to pensioners, children and the disabled. On my immediate right is Mike Isaac, who is deputy chief executive of the Child Support Agency. Further to my right is Janice Shersby, who is also based in DSS headquarters in London and is the policy manager for income support issues. On my immediate left is Marion McFarlane, who acts as the DSS policy focal point for links with the Scottish Parliament. She is based in London and Edinburgh and commutes regularly between the two. Further to my left is John Strachan, who is the manager of the Benefits Agency central support unit in Scotland.

Given the fact that poindings and warrant sales have implications throughout much of the DSS's business, we have sought to bring a team that has knowledge of different parts of that business. Do you want me to make some kind of general opening statement on our approach or would you like to move straight to questions?

The Convener: It would be helpful if you gave us a general opening statement, because there is a feeling among committee members that we need substantial evidence of your views on this matter. If you can make an introduction, members will then ask you questions.

Paul Gray: I will try to make my introduction brief. In early November, the committee received a memorandum from us, giving our summary views on the issue. In spelling that out, it might be helpful to identify the three main areas of the work under the direct control of the department in which the potential use of poindings and warrant sales is of relevance.

The first relates to child support, which is an integral part of the operations of the DSS. Its particular focus is not on the administration of parts of the benefits system, but is essentially on securing payments to parents with care. The potential use of poindings and warrant sales is an issue when the agency is having difficulty in

securing compliance of payments from non-resident parents to parents with care.

The second area under our direct control, in which poindings and warrant sales are potentially relevant, is in the work of the Benefits Agency; for example, in cases of overpayments of benefit—whether they arise from fraud or suspected fraud, or from more general error in the system—in which we seek to secure repayment. The other area of relevance within the Benefits Agency is social fund loans, when the department, having made a loan under the social fund, is having difficulty securing repayment.

Those are the three main areas of potential use of poindings and warrant sales. We regard the use of those procedures very much as a matter of last resort. Our approach is to seek to use other methods of enforcement wherever they are viable. In particular, all our procedures, whether they are in the Child Support Agency or the Benefits Agency, involve giving appropriate periods of time to pay, when we are having disputes with people.

Where that approach is not successful, our preferred approach is to use deductions from benefit for those customers who are benefit recipients. We have an automatic mechanism for recovering, under various rules, amounts of overpayment. The alternative method that we favour, where someone is not on benefit but there is either an overpayment issue in relation to past benefits or a compliance issue in relation to child support payments, is attachment of earnings.

The main group of people, whether it is Benefits Agency cases or Child Support Agency cases, where attachment of earnings is not a viable option, tends to be the self-employed. That is the main category of customers for whom the potential use of poindings and warrant sales comes into account. As I said earlier, that approach is taken as a last resort. We seek to adopt a sensible approach to the procedure, recognising that it is self-defeating when we are pursuing cases in which the only likely outcome is forcing someone back on to benefits. In practice, the use of poindings—still more, warrant sales—is very much a minority activity.

To give the committee some flavour of the figures, it may be worth highlighting the number of cases, for Benefits Agency operations in Scotland, that go through at different points of an enforcement procedure, taking together both cases of general overpayment of benefit and social fund loan repayment issues. Taking together all cases in that Benefits Agency group, over the two and a half years from April 1997 to October 1999, there were about 25,000 cases in which our efforts to secure repayment ran into difficulties and we felt that it was necessary to issue a solicitor's letter, indicating the possibility of legal action to secure repayment. Over those two and a half years, 25,000 solicitor's letters were issued. Those letters indicated, in general terms, the possibility of legal action but did not spell out in detail what forms that action might take.

The result of those 25,000 letters was compliance in roughly two thirds of those cases, and repayment arrangements were put in place. About 9,000 cases were not satisfactorily resolved, following the solicitor's letter. In those cases, sheriff officer's charges for payment were issued as the next stage in our recovery efforts. As the committee is probably aware, those sheriff officer's charge letters spell out the forms of legal recovery action that might be taken, and include a specific reference to the potential use of poindings and warrant sales. We had issued on our behalf about 9,000 of those letters.

The vast majority of those cases were then resolved satisfactorily, and in only five cases did we think that it was sensible, appropriate and necessary seriously to consider poinding action. Those were the only cases, over two and a half years, in which we seriously considered that step. Of those five cases, we decided that it was sensible to institute the poinding procedure in only one case, and, in that one case, we did not proceed to a warrant sale. That should give the committee a feel for the figures, as should the overall statistics in the Scottish Law Commission's interesting consultation document, which show that large numbers are progressively reduced as the various steps of the procedure are used by other creditors.

Those figures relate to the Benefits Agency operations in Scotland over the past two and a half years. In the case of the Child Support Agency, there is a similarly broad pattern, but, in the event, we make slightly more use of poindings and warrant sales. Over the past nine months or so, around eight cases have gone to warrant sale; in about another 20, that possibility is under consideration. Across the department's operations as a whole in Scotland, only a handful of cases go through to warrant sale in a given year. Those are predominantly in the area of child support rather than benefits. This is an extremely small proportion of the cases in which the possibility of poinding and warrant sale is brought to debtors' attention.

10:15

That brings me to the final point that I want to make in this introduction. For us, the key benefit of having poinding and warrant sale potentially available is the fourth of the uses of the system identified by the Scottish Law Commission: what it terms the spur-to-payment role. Our operations suggest to us—although, inevitably, this has to be

a matter of judgment—that the existence of that potential last resort is an effective mechanism in securing compliance in the vast majority of cases. Our concern is that, in the absence of that mechanism or some alternative mechanism of equivalent effect for securing a charge over movable property, the spur-to-payment benefit that the existence of a last resort provides and our ability to secure compliance without having to press the nuclear button, as it were, would be severely compromised.

I hope that that is a helpful introduction. We will do our best to respond to any questions.

The Convener: Thank you. I am sure that there are a number of issues that we want to explore with you. I will kick off the discussion.

I see a problem with the core of your argument. We have considered the evidence on this issue for some time now, and it boils down to two key points. First, there is a lot of evidence that poinding and warrant sale is a very blunt instrument. It is unwieldy, expensive and does not target the people whom we should be targeting. We have heard evidence that it is very difficult to get money from really impoverished people, although poinding and warrant sale may be appropriate for people who are being more fly. However, I have yet to hear evidence that the process is very effective.

You have made the second point yourself. Why, in this day and age, are we using threatening behaviour of this sort to deal with a handful of cases? We know from our constituencies that the threat of poinding and warrant sale is the most intimidating element of this legislation. It is not effective because we do not use it very often. Given that we are talking about a handful of cases, even if they relate to child support, is this really worth all the effort, intimidation, worry and expense involved?

Paul Gray: There are a number of points there. As you say, the system is used in only a handful of cases; in the vast majority of cases, we are able to secure compliance through other means.

Is it an expensive procedure? It is potentially quite expensive. In a number of cases, when we have almost reached the final stage, we have concluded—possibly after advice from the sheriff's officer—that the costs of the action as compared with the assets available make it not worth pursuing.

We decide, on a case-by-case basis, whether it is cost effective to pursue an action. We have to consider cost effectiveness in the round. The costs that would be incurred if we did not have the ultimate sanction available to us would be at least as great as those incurred by using it. We would have to pursue action through solicitors' letters, which usually—but not always—secures compliance.

I believe that a point was made about whether it is appropriate to use this method of recovery when dealing with people who are very poor and have few assets. If people have no assets of significant value, we conclude that it is not worth pursuing an action. It is hard to recover debt from the very poor and all of us would be happy if there were an effective alternative mechanism. The Scottish Law Commission seems to have had difficulty identifying an alternative. We have been unable to do so, but we would be happy to consider one if it were suggested.

The Convener: You have said that the biggest spur to payment is a solicitor's letter that indicates that legal action will be taken, not the threat of poindings and warrant sales, which some would argue is particularly pernicious.

Paul Gray: That is correct, but the Benefits Agency was left with 9,000 cases last year in which a letter from a solicitor was not effective.

The Convener: I understand that, but your figures suggest that the letter is the most effective method.

Alex Neil: Mr Gray, do you have explicit ministerial approval for your opposition to the abolition of poindings and warrant sales?

Paul Gray: The evidence that we submitted in November was approved by our ministers, who know that we are discussing the matter with you today and are aware of the approach that we are taking.

Alex Neil: Would it be fair to say that the ministers in the department oppose the abolition of poindings and warrant sales?

Paul Gray: In the event of abolition, ministers want there to be in place an effective alternative mechanism. We are not opposed to abolition as such; we are saying that we must have an effective way to ensure payment. That also seems to be the position expressed in the Scottish Law Commission's report. Every country in the world that has a comparable system has an effective way to ensure payment.

Alex Neil: Has the department examined how similar agencies in countries that do not have poindings and warrant sales recover debt?

Paul Gray: As the Law Commission report brings out, it is difficult to find an advanced country that does not have some broadly comparable system of attachment of moveable, physical assets as a means of debt recovery. We have examined what other countries do. Their precise legal forms are not necessarily the same as those that we have in Scotland or England—we have

broadly comparable but not identical systems—but it is difficult to find any country that does not have a mechanism to secure a charge against moveable, physical assets.

Alex Neil: Have any of the five witnesses attended a poinding or warrant sale?

Paul Gray: I have not, but my colleagues must speak for themselves.

Alex Neil: I suggest that you should; you would maybe change your mind about some aspects of poindings and warrants sales.

I will ask some more detailed questions. In the second paragraph of the section headed "Child Support Maintenance" in your memorandum of 4 November, which was a fairly short note, you state that,

"many non-resident parents are unwilling rather than unable to pay."

Where is the statistical and research evidence to substantiate that?

Mike Isaac (Child Support Agency): I cannot quote figures from substantial research evidence, but we know that the hard core of non-resident parents owing child support maintenance against whom we consider any form of diligence is almost exclusively in the self-employed category. Generally, we are in possession of accounts that suggest that such parents can afford to pay rather than that they are unable to do so. The vast majority of cases in which we have to pursue enforcement of child support debt involve employed people. In such cases, we have administrative powers to impose attachment of earnings orders.

The only cases in which we consider poindings and warrant sales, or any other form of diligence, are those in which we have evidence that the non-resident parent can pay. If there is doubt, we do not pursue those remedies.

Alex Neil: So this problem lies primarily with the self-employed?

Mike Isaac: In child support, yes.

Alex Neil: What percentage of the debt did you recover from the 201 poindings, 20 of which resulted in warrant sales?

Mike Isaac: Again, we recovered only a fairly small percentage. In six of the eight cases that were successful, we recovered a total of £15,000.

Alex Neil: What was the total debt?

Mike Isaac: I will have to check to be able to give the exact percentage, but I think that the amount that was recovered was about a third of the debt that was owed in those cases.

Alex Neil: Once the costs of the poindings and warrant sales are included, what net percentage of the debt did you recover?

Mike Isaac: The costs of the court services are added to the total debt. We also have the cost of administration in support of the court effort.

Alex Neil: Once all the costs are taken into account, what percentage of the original debt do you recover?

Mike Isaac: That is the percentage that I am quoting off the top of my head, but I will need to confirm those figures to you in writing.

Alex Neil: Does the fact that you recover only a third of the debt not suggest to you that the people involved are more unable than unwilling to pay?

Mike Isaac: That depends on the size of the liability order that we are trying to recover. By the time we have reached the point at which we consider diligence, some orders are very substantial. We do not take such action lightly—we do so only at the end of the process, by which time a debt will have been racked up over many months or even years. As the money that we recover generally goes to the parent with care rather than to the state, even a partial recovery represents success.

Paul Gray: It is a distinguishing feature of child support cases that the agency acts essentially as an intermediary between the parents. That is not so in benefit cases, in which the issue is between the Exchequer and the benefit recipient. The obligation on the agency is to seek, on the parent with care's behalf, to secure maintenance. If only a third is secured, the parent with care is that much better off than she would otherwise be in 90-odd per cent of cases.

10:30

Alex Neil: When someone has gone right through the system of your debt recovery procedures and has arrived at the stage of a poinding and a warrant sale—although, if they have the money to pay, it is not in their interest to get to that stage, as it affects other aspects of their life—do you look into the wider situation? For example, if there is a second family to be maintained do you look into the wider implications of what the procedure entails?

Mike Isaac: We do indeed, right at the start of the diligence process. We have a requirement to consider the welfare of all children who are involved in our administration of the Child Support Act 1991. The answer to that question is yes, in every case. If there are children in a second family, the way in which we pursue any form of diligence must be carefully considered.

Alex Neil: The implications of poinding for the

second family could be horrendous.

Mike Isaac: That is absolutely right. That is why many of the initial poinding actions are not pursued. We find that children in second families would be adversely affected by the poinding of goods.

Alex Neil: So you would give a guarantee that, when poindings and warrant sales go ahead, there would be no knock-on effect on the second family?

Mike Isaac: That is what we are required to do. That does not mean that we never pursue poinding where there are children in the second family. A lot depends on what we can establish about the income and resources that are held by the non-resident parent. Sometimes, seizable property does not affect the welfare of the children.

Alex Neil: Can you give examples of such property?

Mike Isaac: The standard hi-fi or computer equipment. In one case, we poinded a boat. So much depends on the individual circumstances of the case. If there is any chance that a child in a second family will be affected, we never pursue such action.

Alex Neil: Do you take into account the implications for the second family of its door being battered down by sheriff officers? Do you take account of the psychological effect of poindings and warrant sales on those families?

Mike Isaac: Anything that affects the welfare of the child must be taken into account.

Alex Neil: Is that specifically taken into account?

Mike Isaac: The broad base requirement is that we must consider everything and anything that potentially affects the welfare—

Alex Neil: Answer the question. Is the psychological damage that can be done by a sheriff officer battering in someone's door—something that you have never experienced—specifically taken into account?

Mike Isaac: Any psychological, emotional or financial factor must be taken into account as it affects the welfare of the child.

Alex Neil: What about the welfare of the second spouse?

Mike Isaac: We have a requirement to consider the welfare of the children.

Alex Neil: So you ignore the welfare of the second spouse?

Mike Isaac: When considering whether to pursue diligence, we would not specifically consider the partner unless goods of court are owned by them.

Alex Neil: Do you understand the implication of sheriff officers battering down the door of someone's home to undertake a poinding or a warrant sale? Do you understand the impact that that has on the family unit? You cannot isolate the children from the total family unit. Do you understand the psychological impact that that action has on family life?

Mike Isaac: Yes, I think I do—and I think that the staff we employ on pursuing diligence understand too. That is why we do not take such actions lightly.

Alex Neil: Do they have direct experience of poindings and warrant sales?

Mike Isaac: I cannot answer how many, if any, attended poindings and warrant sales.

Alex Neil: In that case, the previous answer is invalid.

Mike Isaac: I would dispute that a person necessarily has to be present at such an occurrence to understand what its implications are. We do not pursue such things lightly.

Mr John McAllion (Dundee East) (Lab): In response to questions from the convener, Mr Gray spoke about the overall effectiveness of poindings and warrant sales and said that the cost to the department of not having poindings and warrant sales would be at least as great as the cost of having them. Are you telling us that if poindings and warrant sales were abolished, there would be no net effect on the cost-effectiveness of the department's methods of recovering debt?

Paul Gray: No. I am saying that the actual costs incurred in poindings and warrant sales—taken in the round—are relatively small because so few cases reach that stage. My concern about the overall cost-effectiveness of our procedures is that in the absence of poindings and warrant sales, or some measure of equivalent effect, we would find that a substantial number of cases that are currently settled satisfactorily before we get to the use of poindings and warrant sales would not be satisfactorily settled.

Part of my reason for quoting the cascade of statistics is that, in the absence of a satisfactory spur to payment, it would take only a small impact to worsen our overall cost effectiveness. That is true in benefit cases, where we seek to recover money that is due to the Exchequer; it is true in quite a large proportion of cases where there has been fraud or suspected fraud; and it is true in child support cases, where we would not be able to get as much money into the hands of parents as we do at the moment.

Mr McAllion: I would like to focus on the Benefit Agency's use of poindings and warrant sales. You said that the two main categories for that were the overpayment of benefits and the non-repayment of social fund loans. You said that in just under 9,000 cases, sheriff officers' letters were sent out threatening poindings and warrant sales. How many of those cases were for social fund loans and how many were for overpayment of benefit? What were the proportions?

Paul Gray: Social fund loans make up the greater proportion of the two. I mentioned 25,000 solicitors' letters—

Mr McAllion: I thought you said 9,000. Can we get this clear: you said that there were 25,000 cases in which there were difficulties, but that in just under 9,000 cases sheriffs officers' letters had been sent out.

Paul Gray: I will give you the proportions for both situations, to give you the full picture. The split for the 25,000 solicitors' letters was roughly two thirds to one third—a little over 16,000 letters related to the social fund and 8,500 related to overpayment. In the just under 9,000 sheriff officers' cases, the balance tips the other way—just over 5,000 related to overpayment and about 3,500 related to the social fund.

Mr McAllion: Would it be fair to say that people who qualify for social fund loans or, indeed, for benefit payments, are among the poorest people in the country?

Paul Gray: Yes, it would.

Mr McAllion: When those people receive a sheriff officer's letter that threatens them with poindings and warrant sales, where do you think they get the money to pay the Department of Social Security?

Paul Gray: If they are in receipt of another benefit—which is true in, I think, the majority of cases—we secure recovery in the normal way, by deduction from benefit.

Mr McAllion: I thought we were dealing with cases in which that did not apply, but you had to threaten poindings and warrant sales before you could recover the money.

Paul Gray: As I said in my introduction, we have to take recovery action in cases where we are not able to recover debts from repayments of benefits. By definition, such people are outwith the benefits system, which implies that they have sources of income that take them above benefit thresholds.

Mr McAllion: So these 9,000 people—

Paul Gray: Although those people are not necessarily well-off, they do not fall into the poorest category, and have reached a position where they are receiving a modest income, perhaps by getting back into work. In such cases, we feel that it is reasonable to seek to secure repayment. Although we have taken sheriff officer action in 3,500 social fund cases, we secure repayment in the majority of cases without using that ultimate sanction. In the past two years, we have considered—but have not taken—poinding action for two social fund cases.

Mr McAllion: Let us be clear, because it is important for the committee to receive the real evidence. Were all of the 9,000 sheriff officers' letters threatening poindings and warrant sales sent out to people who had previously been claimants but were now in employment?

Paul Gray: That is right.

Mr McAllion: Has no benefit claimant ever received a letter from the DSS threatening a poinding or warrant sale?

Paul Gray: We would not operate that procedure when we are able to secure repayment through benefit, which—as I said at the beginning—is our preferred method. As the people in the benefits system are our customers, we have a continuing financial relationship with them. For people in employment, we use arrestment of earnings.

Mr McAllion: Why was not arrestment of earnings used in those 9,000 cases instead of threatening people with poindings and warrant sales?

Paul Gray: In the majority of those cases, it is likely that those people were self-employed, which is where the difficulty arises. Whether we are talking about benefits recovery or child support recovery, most of our cases involve the self-employed, because neither of our preferred methods of recovery—the benefits system or attachment of earnings—are open to us or to other creditors.

Mr McAllion: So have those 9,000 people gone straight from requiring a social fund loan or claiming benefit to being self-employed?

John Strachan (Benefits Agency): About 2,000 of those 9,000 cases resulted in arrestment of earnings.

Mr McAllion: So those people were employed.

John Strachan: Yes.

Mr McAllion: Why was not arrestment of earnings successful?

John Strachan: It was successful.

Mr McAllion: So why were those people threatened with poindings and warrant sales?

John Strachan: Quite simply because the sheriff officer's charge for payment mentions that

failure to repay the debt can result in a number of subsequent actions.

Mr McAllion: Does that mean that Mr Gray's previous answer about all 9,000 being self-employed was not true? We now know that at least 2,000 of them were employed and had their earnings arrested. What is the DSS's evidence? Can everyone speak with the same voice instead of giving the committee conflicting evidence? We have to be able to understand the situation.

Paul Gray: I apologise for misleading the committee on those figures. I want to step back a bit from this. Normally, we would have hoped to establish whether someone was employed before a sheriff officer's letter was sent out and have been able to pursue arrestment of earnings.

10:45

Mr McAllion: Let us be clear. By the time it gets to the stage of sheriff officers pursuing a poinding, they are usually seeking a lump sum to avoid the poinding. That is why it is effective. The debtor must come up with a lump sum to satisfy the sheriff officers. Where do you think people who are not claiming benefit—who, let us be honest, are likely to be on very low incomes whether they are self-employed or working—get the money to settle their debts when they are pressured by the Department of Social Security with the threat of a poinding? The evidence that we have taken from people who work with the poor is that they go to moneylenders. The threat of poinding and warrant sales forces poor people to go to moneylenders to pay off the debt. If that is Government policy—forcing poor people into that situation—it is time it stopped.

Mike Isaac: That is not correct in terms of child support.

Mr McAllion: I am talking about the Benefits Agency.

Mike Isaac: From the perspective of child support, we seek the compliance of the individual debtor, not the recovery of the whole debt in a lump sum. Some of the people with whom we pursue diligence have never co-operated with us even by providing the information to allow us to produce an assessment. We find that, as we pursue the action, more and more people comply so that we can enter into voluntary administrative agreements for repayment of the debt. That is our primary aim—not recovery by lump sum.

Mr McAllion: I have a real problem with the central basis of your argument, which is that the threat of poinding and warrant sales makes people who do not want to pay, pay up and that otherwise there would be widespread abuse of the system and people would refuse to pay their debts. Local government is by far the biggest user of poindings and warrant sales, yet councils such as West Dunbartonshire have specifically rejected the use of poindings and warrant sales and successfully recovered their debts. Many other councils do not use poindings and warrants sales—although they may not say explicitly that they do not—yet continue to recover their debts as effectively as any other council.

The evidence that we are hearing is that poindings and warrant sales are not necessary to recover debt and that other, humane methods are available to recover debt and deal with the problems facing the debtors, rather than resorting to the sheriff officers' barbaric tactics of threatening to take people's furniture and breaking down their doors. Do not you agree that the DSS should be emulating best practice in local government rather than sticking to those barbaric and outdated methods of debt recovery?

Paul Gray: We are examining best practice and, as I have said from the beginning, we view poindings and warrant sales as a last resort. As has been brought out in our evidence already, the system is used in only a handful of the many thousands of cases in which such action is a possibility when the case is first raised. It is our judgment that, in the absence of the spur-to-payment function, it would be more difficult for us to secure compliance at earlier stages of the process.

Mr McAllion: Creditors across the public and private sectors get by perfectly well without resorting to the use of, or even the threat of using, poindings and warrant sales. Why can Government agencies not do the same?

Paul Gray: I am not clear that that is the case in substantial other parts of the public and private sectors.

Mr McAllion: What about local government? It happens all the time that councils do not resort to poindings and warrant sales. Some do, but many do not and get by perfectly well.

Paul Gray: Some do and some do not. Our approach is to use poindings and warrant sales only in the handful of cases in which, having exhausted all other possibilities, we get nowhere. If there is a reasonable prospect of securing a reasonable recovery, we reach a judgment that it is worth triggering the action.

As Mike Isaac and I said earlier, in a number of cases, we get to the end of the line and judge that there is no point in following the procedure. We follow it through only when we think there is benefit in doing so. We do that because of the statutory obligations under which we operate. In the case of child support, as Mike has explained, our statutory obligation is to do all we reasonably

can to secure payments for parents with care. In social fund cases and in cases of overpayment by the Benefits Agency, particularly if there has been fraud, our statutory obligation is to seek to secure recovery for the Exchequer.

Karen Whitefield (Airdrie and Shotts) (Lab): I was particularly interested to see that you indicate in your document that there is a need for poindings and warrant sales because they help to tackle child poverty. I do not think that any member of this committee wants us not to tackle child poverty, but what proportion of the third of the debt that the Child Support Agency is able to recover goes to the parent with care and how much goes to the Treasury? Generally, the parent with care is in receipt of benefits and so is writing off the debt that is owed.

Is it not the case that you recover only outstanding debt and that the parent with care will then go on to accumulate further debt until the child is 18 or employed or in further or higher education? The parent with care is left with the heavy burden of supporting the child and living on benefits, so it is not helping to get children out of poverty at all.

Mike Isaac: That is not true, although it certainly was when the CSA was set up. Then, a large majority of parents with care received income support, but now 55 per cent of parents with care who we deal with do not receive income support. They choose to use the agency to secure payment of maintenance, so every pound of maintenance that we collect for those parents with care goes straight to them. Even some parents with care who receive income support have asked to receive their child support payments directly and have their income support reduced proportionately. That trend—away from parents with care who receive income support towards more parents enjoying, pound for pound, the benefit of maintenance—is projected to continue over the next few years.

Under the Government's proposals for the reform of child support, every parent with care will benefit by at least £10 a week from any maintenance paid. That will mean every parent with care receiving at least some benefit from maintenance paid by the non-resident parent.

Karen Whitefield: I do not dispute that parents, whether or not they have care, should have responsibility for their children; I am asking whether the money recovered has been handed over to parents. That was not my experience when I worked for an MP for the past seven years and I still see constituents who are experiencing difficulties with the CSA. The use of warrant sales will not help their children in any way. I am not convinced that the money will always go to the parent with care. Did you send giro cheques to every parent in the cases that you pursued?

Mike Isaac: I have said that the total amount recovered by warrant sales was only £15,000. I do not have a breakdown of how much of that went directly to parents with care and how much went to the Secretary of State for Social Security. Generally speaking, when we pursue diligence it is because the money will go to the parent with care and we are being pressed to recover the money by her, not by the secretary of state in terms of money going back to the department.

Karen Whitefield: You said that you take into account children in second families when you pursue poindings and warrant sales, but you have no responsibility to take into consideration the wife in a second family. Nor, in my understanding, do you take into account other debts that the parent without care may have in that second family. The problem is that that parent may be experiencing financial difficulties, which will be worsened by the legal action that you take, leaving the parent unable to pay other debtors, which they may be attempting to do. To me, such action is not a solution. Do you agree that other ways are available? The deduction of earnings order is more effective—

Mike Isaac: Yes.

Karen Whitefield: Self-employed people, who quite often abuse the system, are a problem but are there not other methods apart from warrant sales? One possibility is the arrestment of bank accounts.

A further problem is that when you pursue legal action, all you do is recover part of the outstanding money, but debt can still accumulate. That does not solve the problem or help to make the children better off in the longer term.

Mike Isaac: We certainly do not immediately think in terms of poinding and warrant sales. To recover debts from the self-employed, we consider first the arrestment of bank accounts, as you mentioned, but that is very hit or miss. More often than not, we do not know where the non-resident parent holds funds and I am afraid that, when we are given that information, we find that he is very quick to move the money around. We should not overestimate the positive impact of arrestment in recovering goods.

We also consider inhibition—an order on property—but that is worth considering only if a non-resident parent is selling a property. Again, we get very few successful cases. That leaves us with poinding, unless we move to committal under the Child Support Act 1991, which we try to avoid in all cases. We have never taken a case to committal in Scotland, although we have done south of the border. Therefore, there are not many options available for recovering debts from the self-employed.

Bill Aitken (Glasgow) (Con): As I understand it, you justify your stance by your belief that, without the mechanism of poindings and warrant sales, people would be reluctant to pay in many of the 9,000 cases that remain after the issue of the letter. Is that a fair summation of your argument?

Paul Gray: Yes.

Bill Aitken: How much is outstanding in those 9,000 cases? If you cannot give me a total, can you give me an average per case? Are we talking about less than £100, between £200 and £300, or four-figure sums?

Paul Gray: I am afraid that we do not have that information, but I can submit written evidence to the committee with our best estimate.

Bill Aitken: That information is fairly important. For cases that you put into the hands of sheriff officers and which do not result in a poinding, how much money do you spend on sheriff officers' fees without being able to make a recovery?

John Strachan: Under the Debtors (Scotland) Act 1987, the expense of sheriff officer action is added to the debt, and we incur no expense.

Bill Aitken: There must be some cases in which you involve sheriff officers but they take no action except to issue letters. In a case in which you decide to pursue the matter no further, the sheriff officers would presumably seek to recover their costs from your department, as they would not get them from the person who is the subject of the action.

John Strachan: In the majority of cases, a sheriff officer issuing a charge for payment results in one of two situations: either a voluntary agreement is reached or, in cases of people in employment, we move to wages arrestment. The expense of the sheriff officer action is added to the debt and recovered from the debtor. It is true to say that we must bear that cost if we are unsuccessful in recovering the debt.

Bill Aitken: Can you quantify that?

John Strachan: I am unable to quantify that.

Bill Aitken: How much debt do you write off annually in Scotland?

John Strachan: I cannot identify that figure for you.

Marion McFarlane (Department of Social Security): We do not have those figures with us. If the committee wants them—

Bill Aitken: I think that they are important. If there is a justification for poindings and warrant sales along the lines that you have outlined, we ought to see those figures. It seems to me that an awful lot of money could be spent on pursuing matters, with very little recovery at the end of the day. That is an important issue.

The Convener: We will return to that later.

Paul Gray: We will let the committee have in writing such information as we can provide.

The Convener: It would be useful to sweep up at the end and give you a list of points on which we would like further information.

Mike Isaac: I would like to point out that we have no authority at all to write off child support debt.

Bill Aitken: I appreciate that.

John Strachan: Various actions have been taken in the period to which we have been referring. The amount recovered averages £1 million per annum.

11:00

Mike Watson (Glasgow Cathcart) (Lab): I would like to develop a point raised by Alex Neil's initial question about Government policy. I have seen the letter that Velda Andrews wrote to the Justice and Home Affairs Committee and what you have said today reflects its content. Did your department come up with those ideas and show them to ministers, who endorsed them? I am not aware that there is an official Government policy on the matter, but you said that the views expressed in the letter have been endorsed by the relevant ministers.

Paul Gray: The starting position is the current legal system. It is as it is in Scotland and it is as it is in England and Wales.

Mike Watson: You are expressing the view that, as things stand, you are not in favour of the bill being passed if there is nothing else to take the place of poindings and warrant sales. Has that view been endorsed by ministers?

Paul Gray: Yes.

Mike Watson: The letter states:

"while similar provisions remain in English law, parents in the two countries will be pursued for arrears of maintenance in differing ways."

I thought at first that "the two countries" meant England and Wales, but I see now that I misunderstood that. Presumably "the two countries" are England and Wales on the one hand and Scotland on the other.

Paul Gray: That is right.

Mike Watson: The letter, with rather curious grammar, goes on:

"With, in Scotland, the enforcement process moving much more swiftly to applications for committal."

What are the different ways in which debtors are pursued in England and Wales? Can you assess the relative effectiveness of the methods used in England and Wales and the methods used in Scotland?

Either Mr Gray or Mr Isaac said that only one case had gone for committal in Scotland, but he did not say in what period. If, as the letter states, the process in Scotland moves more swiftly to applications for committal, how many applications resulted in the single case that was referred to a few moments ago?

Mike Isaac: I will answer the committal question first. No cases have gone for committal in Scotland. By comparison, in England and Wales, some 36 cases have gone for committal in the year ending March 1999, and a further 19 so far this year. The number of non-resident parents who have been committed to prison since the agency was established in 1993 is five. The large majority of parents, not surprisingly, pay up when the committal warrant is served. Those are statistics for England and Wales.

The differences between the approaches used in England and Wales and in Scotland arise from the different court systems in those countries and the role played by court officials. We employ the same diligence methods south of the border as in Scotland, but rather different terminology is used. Poindings and warrant sales are similar to distraint of goods under English law, for which the procedure is very similar. Arrestment is inhibition south of the border, with charging orders on property. The means of recovering debt are basically the same, but we have to use the courts rather differently.

Mike Watson: So, your recovery rate—your success rate—is more or less the same in England and Wales as in Scotland?

Mike Isaac: Yes. Having looked at the comparative figures for England and Wales, and Scotland, I can say that they are not disproportionate other than for committal.

Paul Gray: I do not have precise figures to give to you. However, in benefit cases, proportionally greater use is made in England and Wales than in Scotland of the equivalent procedure to poindings and warrant sales. Its use is still limited to a small proportion of cases, but that action against movable physical goods is used slightly more often in England and Wales than in Scotland.

Mike Watson: I want to ask about bank arrestments. I understand that they would not be particularly effective in the case that Mr Isaac mentioned, in which a self-employed person can have more than one bank account. A person who is on benefits probably has no bank account, and when such people have some resources, bank arrestments cause them more problems than wage attachments. How do you decide whether it is appropriate to use a wage attachment rather than a bank arrestment, bearing in mind that a bank arrestment can get people deeper into difficulties if all their financial resources are frozen?

Mike Isaac: We would not consider bank arrestments for cases in which we know that a debtor is in paid employment. We have the administrative power to impose a deduction from earnings order, and would always take that course of action. As far as I am aware, bank arrestments have been applied only to recover debt from the self-employed.

Mike Watson: My final question deals specifically with CSA issues. People who are required to pay child support do so continuously over a period of time, until the child reaches a certain age. If you have to take action against a recalcitrant parent, do you have greater success in getting that parent to continue making payments—beyond the ones that caused the debt—if you use, or threaten to use, warrant sales than if you use a bank arrestment or a wage attachment? In other words, which action, in the longer term—rather than just for recovering the debt that you are concerned about—is more successful, in your experience?

Mike Isaac: Our primary aim is on-going compliance with the current maintenance liability. To achieve that, in the case of self-employed people, we sometimes find that we must register a past debt to free up the on-going payment of maintenance. In a hard core of cases, we may never have been given the information, by the non-resident parent, with which to make an accurate assessment. A punitive assessment is put in place, which can be registered as a debt over time. We find that pursuing diligence frees up the information that we need to produce an accurate assessment, which immediately substantially reduces the non-resident parent's debt. In that sense, compliance is improved.

That emphasises the point that I tried to make earlier. We are concerned, first and foremost, with the fact that parents should meet their liabilities to maintain their children, rather than with the recovery, by lump sum, of previous debts. That can be achieved over time and, administratively, we try to enter into voluntary agreements to repay.

Mike Watson: As the threat of poindings and warrant sales is used in only a relatively small proportion of cases, do you get that sort of compliance, in most cases, without having to resort to such action?

Mike Isaac: Yes, we do.

The Convener: We have a wee bit more

flexibility than I had expected, so I shall let this debate run on, as members want to pursue it.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): The two-page letter that we received from the department talked about poindings and warrant sales as a valuable bargaining tool. Later in the letter, the threat of such action is said to be very effective. To return to the convener's earlier question, do you agree that that is a threatening way of dealing with a large number of people, even though very few are taken to the full poinding or warrant sale? Do you agree that you are threatening people who are vulnerable, whether through family breakdown or through getting into difficulties as a result of benefit fraud, and that such action is not effective as it recovers only a small proportion of the debt? Surely an organisation as large as yours should be able to establish a more acceptable method of recovering debt?

Paul Gray: That question raises two or three points. Is ours a threatening approach? Well, yes. Anybody who seeks to have a sheriff officer's letter issued could be regarded as threatening in some sense. I have in front of me an example of a sheriff officer's letter that we send out, which makes clear the basis on which the case is being pursued. It says:

"If you do not pay this sum",

which has been specified earlier in the letter,

"within fourteen days you are liable to have further action taken against you including arrestment of your earnings and the poinding and sale of articles belonging to you. You are also liable to be sequestrated (declared bankrupt)."

The letter goes on to state who has served the charge and the amount in question; it is a factual statement of the position that we have reached in the recovery process. That could be regarded as threatening, but it must be remembered that by the time such a letter is issued, we have already, in all cases, gone through several steps and procedures, including the prior issue of our own solicitor's letter. In those circumstances, as we have a legitimate interest in pursuing the debt, that is a measured way in which to approach people, to demonstrate to them the seriousness of their position. The letter also cites poindings and warrant sales among several actions that might be taken.

The other question returns to some of our earlier dialogue. You are saying that, as few cases go to poinding and warrant sale, the procedure is ineffective. Our evidence suggests a different point of view. The fact that there are so few cases in which that action is taken shows that the availability of this "nuclear deterrent", if you like, as a last resort is an effective spur to payment—to revert to the words and analysis that the Scottish Law Commission used in its document.

Cathie Craigie: Your final sentence leads me to a question that I intended to ask. In your submission, you rely heavily on the evidence that was given in the Scottish Law Commission's report. I take it that that has formed the basis for the department's thinking and for its wish to continue using this method of recovery. Are you aware that, when the Law Commission was questioned by members of the committee, much of its evidence was not substantiated? Its comments were based on its own opinions—when asked, it had no evidence to back those up.

Robert Brown (Glasgow) (LD): It was the Law Society, not the Law Commission.

Cathie Craigie: I am sorry.

Paul Gray: I have quoted the Law Commission report once or twice, but only because I thought that, by using terms that are in common use following that consultation exercise, I would make it clear that we were talking about the same things. Our view on this issue predates the Law Commission consultation document, which came out only towards the end of last year. The letter that we sent in was dated 4 November.

11:15

Mr Keith Raffan (Mid Scotland and Fife) (LD): In reply to Mr Neil's points, Mr Isaac said that three factors—psychological, emotional and financial—were considered when judging whether debt should be pursued. One of those can be assessed fairly objectively, but the other two are very subjective. I would like to go into that briefly, if I may—the shorter the answer the better, as I have two other questions.

First, how are staff trained to make a judgment on psychological and emotional factors? Obviously, subjective assessment is uneven and potentially unfair. One of your staff may see a case completely differently from someone else. Are cases double-checked, or do you just leave them to one member of staff? To what extent are staff given guidelines? Secondly, to what extent do you try to minimise the subjectivity by, for example, involving social workers or medical reports?

Mike Isaac: The legal requirement to consider the welfare of the child is just that. There is no detail in the Child Support Act 1991—

Mr Raffan: I am not concerned about acts.

Mike Isaac: I was going on to say—

Mr Raffan: I want to cut to the quick on this. I am interested not in legislation, but in your procedures in the department. Can you tell me succinctly what they are?

Mike Isaac: Because there is no legal detail, we provide staff with guidance on the issues that they should consider. That guidance can only be indicative, rather than exhaustive. Some subjective judgment is inevitably used when applying the criteria, which relate to emotional, psychological and health factors. Officers have to take into account any piece of information that is brought to their attention and has a bearing on the welfare of the child. How do we ensure that it is taken into account? All the work that we do is subjected to a percentage check by supervisors and managers.

Mr Raffan: Fine. It would be helpful if the committee could have a copy of that guidance.

I am concerned about the unevenness of training. I am also concerned about your use of the phrase "brought to their attention", which suggests that the onus to provide information is on those whose situation is being inquired into. Such people may not be aware of the kind of information that they should bring to the attention of your staff. My concern is that those people may not think of involving a social worker or medical reports. It is up to your staff to ask people whether they have a general practitioner or social worker whom they might want to involve.

In any big department such as yours—and yours is the biggest of them all—things get incredibly bureaucratic. That is the impression that I have received throughout your evidence. When things get bureaucratic, they get impersonal. When things get impersonal, individual circumstances are not taken into account. Cutting through the verbiage, I am trying to establish to what extent you make a real attempt to address the individual circumstances of each case.

Mike Isaac: The guidance that we issue is pretty comprehensive and we check that it is applied. We can do that by seeing in what cases that are brought to our attention we are accused of not having regard to the welfare of the child. Over the years, the CSA has attracted far more criticism than most agencies, but I can say to you truthfully that we have not been accused of not having proper regard to the welfare of the child in particular circumstances.

Mr Raffan: We will shortly be taking evidence from Citizens Advice Scotland. Many of the people who are involved in your cases may not think of going to a citizens advice bureau—an excellent institution—and getting real help and back-up when putting their case.

Mike Isaac: I can address that point more easily. Our staff are not trained to deal exclusively with the financial aspects of child support. All too often, other problems are brought to the attention of staff, particularly early on in the case. They might be access problems or contact problems. We make extensive use of the voluntary sector when referring those problems on. We have both national and local consultation with all the key representative groups, to ensure that that happens smoothly.

Mr Raffan: I have one final point. In your brief—not to say slightly flimsy—written evidence, you refer to recovering debts resulting from overpayments of social security benefits. As briefly as possible, can you give us a list of where overpayments occur, other than through fraud? What I want to know is to what extent overpayments of benefits for council tax and so on are the result of administrative error on your part. In those circumstances, to what extent do you change your tune when it comes to pursuing those who have been overpaid?

Paul Gray: There is a range of different circumstances. I am afraid that I cannot give you a precise answer. Some of the cases will be cases of fraud, while others will be cases of official error.

Mr Raffan: Your error?

Paul Gray: Our error.

Mr Raffan: Good.

Paul Gray: Others will be cases in which the claimant has made an error, but we reach a judgment that that was a mistake on their part. Claimants make mistakes, just as we do. Not all the mistakes that they make are fraud. There is a spectrum of circumstances. I cannot give you a precise breakdown of how those categories map on to the cases that we are talking about.

Mr Raffan: So if it is your error, you accept that and you are more lenient and understanding.

Paul Gray: Yes.

Mr McAllion: You are kidding.

The Convener: The next person on my list is Tommy Sheridan. Robert Brown and Lloyd Quinan are keen to come in as well, but I think that I will take Tommy now because of his interest in this bill, if that is okay with the other members. We have some, but not complete, flexibility, so I ask members to focus on issues that have not been asked about already.

Tommy Sheridan (Glasgow) (SSP): I will be as brief as possible. Paul, do you agree that the support that you and the department are giving to the retention of poindings and warrant sales is based on entirely subjective evidence?

Paul Gray: It is not entirely subjective. Clearly, it involves an element of judgment about the effectiveness of procedures, but I would regard it as a mixture of judgment and firm facts—some of which we sought to bring out in the evidence. At

the end of the day, judgments tend to be judgments.

Tommy Sheridan: Can I deal with your firm facts? Over the past two and a half years, you have identified 25,000 cases. You send a solicitor's letter to 25,000 people informing them that there is debt of some sort. Following that, 9,000 people are still refusing or are unable to pay. I take it that, through a summary warrant procedure, you then ask the sheriff officer to contact the debtor on your behalf.

Paul Gray: No. The procedures vary. The department does not use the summary warrant procedure. In the case of child support and social fund loan recoveries, we have to go through the full court procedures. We must apply to the court, giving notice to the debtor that we are doing so, and go through the full procedure. In cases of benefit overpayment, we make use of what used to be called adjudication officers—following the recent decision-making and appeals reforms, they are now called decision takers—who have statutory powers under UK law and whose decisions have a legal force.

Tommy Sheridan: I am sorry to interrupt but, although your evidence is succinct, it is not relevant to the point that I was making. I want to establish whether sheriff officers sent out 9,000 letters. Is that correct?

Paul Gray: The letters are sent out by sheriff officers, but not under the summary warrant procedure.

Tommy Sheridan: We have established that. I am glad to see that you have a copy of the letter that is sent out. Would you mind repeating the threats that are made in that letter?

Paul Gray: The letter from the sheriff officer?

Tommy Sheridan: Yes.

Paul Gray: The key paragraph says:

"If you do not pay this sum within fourteen days you are liable to have further action taken against you including arrestment of your earnings and poinding and sale of articles belonging to you. You are also liable to be sequestrated (declared bankrupt)."

Tommy Sheridan: The point that I wanted to establish, convener, is that a range of threats is mentioned in that letter, including earnings arrestment and sequestration, which is a particularly frightening word for many people.

According to your evidence, Mr Gray, that first letter results in the majority of people coming to an arrangement; in the other cases, arrestments take place. I think that John Strachan said that 2,000 earnings arrestments arose from the 9,000 letters. That is why I think that your evidence to the committee is subjective. There is no evidence to suggest that the letter from the sheriff officer would be less effective if it simply said that further action was liable to be taken through earnings arrestment and sequestration of assets. In other words, you have no evidence to show that, if the sanction of poinding and warrant sale was not available, the same number of people would not come to a voluntary arrangement. Is that correct?

Paul Gray: It is difficult to give a definitive answer about what would happen in other circumstances. I am offering a judgment from our experience of operating the system, but it is difficult for anybody to say whether the hard facts of the argument are on one side or the other.

Tommy Sheridan: Thank you. You have said that it is a judgment—I am saying that it is subjective and that if the DSS did not have the use of poinding and warrant sale at its disposal, its ability to recover debts would not collapse. It would be able to recover debts just as effectively, if not more so.

Paul Gray: There are different categories of cases. The reason that we see a case for retaining some form of action against movable assets, as well as the ability to move against people's financial assets, is the same judgment that has been reached in England, Wales and—as I said in earlier evidence—all other countries. Some form of action against physical assets is a necessary part of the armoury. If it were not available, people would be able to move their assets from a financial form into a physical form and so become exempt from creditor procedures. The reason for mentioning the portfolio is that it covers all forms of assets; there is no mechanism for switching assets between categories.

11:30

Tommy Sheridan: You have no evidence to back up that judgment?

Paul Gray: That is the judgment that I am offering.

Mr Lloyd Quinan (West of Scotland) (SNP): How often has the Benefits Agency reviewed the procedure of poindings and warrant sales?

John Strachan: As such, we have not reviewed it. We utilise the facilities that are open to us in Scotland to recover debt, as laid out in the Debtors (Scotland) Act 1987.

Paul Gray: There is a distinction between reviewing the procedure in terms of the legal framework in which we operate—I do think that it is our role to review that framework—and what we do. I assume that your question—

Mr Quinan: My question was quite straightforward. How often have you reviewed the

use of the procedure of warrant sales and poindings as a means of debt recovery?

Paul Gray: Its effectiveness is kept under review by considering the matter case by case, rather than by asking whether or not we should use the procedure. I cannot give you dates and times of when we have sat down and questioned whether we should continue to use that procedure. The progressive judgment from our use of the mechanism has been that there are some cases—a very limited number—in which it is sensible to pursue the debt to the final point.

Mr Quinan: Are you saying that despite the proposals to abolish poindings and warrant sales in Scotland you have not considered other recovery methods?

Paul Gray: In 99 per cent of cases, we use other methods, as our evidence has shown. We use poindings and warrant sales as a last resort. We operate within a legal framework in Scotland and in a broadly comparable way with what happens in England and Wales. Given the statutory responsibilities under which we operate, we must consider the use of the various mechanisms that are open to us. That is the current state of the law in Scotland. There are a small number of cases in which, having tried absolutely everything else, we reach the judgment that it is right to make use of the legal power that is open to us as a creditor.

Mr Quinan: Is it the case that, since you were made aware that the bill would go before the Parliament, you have not considered other methods that you might need to use in the event of the abolition of poindings and warrant sales?

Paul Gray: We have given some thought to whether there is another mechanism at our disposal that we could use to move against physical assets.

Mr Quinan: In your opening evidence, you referred to the use of similar methods in other countries. The impression that you gave was that you had been examining possible changes or the use of other methods. I now have the feeling that you have not considered other methods of recovery.

Paul Gray: In the absence of some other legal framework for taking action against moveable physical assets—whether in Scotland or in England and Wales—we use the framework that is available. From time to time we have contact with our counterparts in other countries and we compare notes on the ways in which we administer systems.

My impression is that other countries have legal procedures that are broadly equivalent to a poinding and warrant sales approach. It is not the case that some countries have said that they will abolish any mechanism for taking action against physical assets.

Mike Isaac: As you might be aware from the green and white papers on the reform of the Child Support Agency, the Government has examined further punitive means to enforce payment of child support. The white paper discusses the possible use of withdrawal of driving licences, which is very much a punitive lever.

Mr Quinan: My question related specifically to the Benefits Agency and not to the CSA.

The Convener: I am sorry, but we are short of time, and the question was quite specific.

Mr Quinan: What agencies or professional bodies—if any—did you consult before giving evidence here?

Paul Gray: Professional bodies?

Mr Quinan: What Government agencies or professional bodies did you consult?

Paul Gray: I do not think that we consulted any.

Mr Quinan: Your reference to the Law Commission report arises, therefore, purely from reading it.

Paul Gray: Yes.

Mr Quinan: How many benefit deductions or arrestments are being carried out by the Benefits Agency in Scotland?

John Strachan: We have consistently spoken about the figures over the past two and a half years. In that period we have effected 3,220 earnings arrestments.

Mr Quinan: I asked about benefit deductions.

John Strachan: I deal specifically with the recovery of debt from people who are not in receipt of benefit.

Paul Gray: We will try to give you a precise figure for benefit deductions, but we will be talking about many thousands of cases.

Mr Quinan: My supplementary question is; how many of those deductions are based on non-summary warrants—cases in which you recover debt on behalf of local authorities?

Paul Gray: I cannot give you an answer off the top of my head, but we will try to provide a figure in writing.

Robert Brown: I declare my membership of the Law Society of Scotland and my association with Ross Harper and Murphy. I do not think that any issues arise because of that, but I thought that I should mention it.

We are dealing with the coercive element of the

process—part of any legal system—which relates to the 25,000 people who cannot pay or will not pay but who, in either case, have not paid.

Paul Gray: They have not paid up to that point.

Robert Brown: I am not clear about the reduction from 25,000 cases to 9,000. It is evident that court procedures will be involved for many people as that number is reduced. Do some people pay when a court action is raised, or during the early stages of court action?

Paul Gray: In Scotland, when there were 25,000 cases, the solicitor for the Department of Social Security issued letters that made it clear that they had been instructed to seek recovery of the debt and made a final, rather legal-sounding request for payment. I think that I am right in saying that there was no formal court action at that stage. Roughly two thirds of cases were then resolved somehow or other, before any further action was taken.

Robert Brown: The further action that can be taken is the issuing of charges, which presumably takes place only after a court decree has been issued.

John Strachan: There are two separate procedures. As we sought to explain earlier, in cases of overpayment a decision by the adjudication officer under section 71 of the Social Security Act 1992 has the legal effect of a decree. We can refer those cases directly to the sheriff officer for the issue of a charge for payment. The procedure is different in social fund cases, as we have to go to court to obtain a decree for recovery. The evidence that we have suggests that when we notify people of a hearing date—after the initial solicitor's letter has been sent—some 60 per cent of them come to a voluntary agreement.

Robert Brown: Is it correct to say that some fraud cases are dealt with by criminal prosecution, and that people are prosecuted from time to time for DSS fraud?

John Strachan: Yes.

Robert Brown: In practice, that is part of the armoury for recovery of debt, because deferred sentences and so on allow for repayment.

Marion McFarlane: The prosecution of fraud cases and the pursual of recovery of benefit are totally separate. People are prosecuted because we have evidence that they have committed fraud and they are then sentenced.

Robert Brown: However, such people appear in your figures.

Marion McFarlane: Yes, if those people have been overpaid, recovery of benefit will be pursued in the usual way in which over-payment cases are pursued—the procedures will be the same.

Robert Brown: I find it difficult to get a handle on the overall figures. Most Government departments use targets and so on. How much money is involved in the 25,000 cases?

Marion McFarlane: We do not have figures with us for the total outstanding amount of overpayments.

John Strachan: You are right to say that we operate on the basis of targets. The initial responsibility for the recovery of debt for the Benefits Agency rests with the central recovery group, which is based in Manchester. The group takes normal action to seek recovery on a voluntary basis. Cases in which the group has been unsuccessful are referred to my unit in Scotland because of the differences in Scottish law. The arrangement between us and the central recovery group is that we operate on a target basis. In round terms the annual target for recovery of overpayments is £500,000 and there is a similar target for social fund cases.

Robert Brown: I am astonished by how small the figures are. I was conscious of that when you mentioned £1 million in a slightly different context earlier. Five hundred thousand pounds seems to be a very small amount to be recovered by your section from the whole of Scotland. Am I missing something?

John Strachan: You are not missing anything. That amount represents a proportion of the overall UK target, which figure I do not have with me.

Paul Gray: The target relates to the point in the procedure at which normal day-to-day mechanisms have not worked and cases have been handed over to John Strachan's section.

Robert Brown: It looks like a very small figure vis-à-vis the 25,000 cases to which, presumably, it somehow relates.

Paul Gray: Yes, but that is the target for recovery. It recognises partly that we are not successful in recovery in all cases.

Robert Brown: Can you provide us with more comprehensive figures on how much you seek to recover, how much you recover, the write-off and so on?

Paul Gray: We will do our best to provide that information.

Robert Brown: I wish to ask about your knowledge of debtors. I think that some of our questions assume that you know where people work and where their bank accounts are. Do you have such knowledge from liaison with other departments and so on?

Paul Gray: The information that we have on debtors varies. John Strachan can, perhaps, give the committee a feel for how much is known about

debtors when cases are passed to his section.

John Strachan: We do not have access to information from any other Government department. If we know that somebody has gone into employment and we know who the employer is, action will be taken. If people have moved on to different employers, the process of earnings arrestment becomes more difficult until we can establish that they are in paid employment.

11:45

Robert Brown: There is, however, no statutory requirement for people to give you that sort of information. You have to rely on information that you have picked up in another context.

John Strachan: That is correct.

Robert Brown: Do you get involved in referrals to citizens advice bureaux or money advice centres to help in sorting out people's problems?

John Strachan: Yes. The letter from the sheriff officer that has been widely quoted this morning suggests that debtors should consult a solicitor or citizens advice bureau.

Robert Brown: I am trying to ask a more fundamental question. We have heard from other witnesses that people often do not pay attention to such advice in letters, as it appears to them to be legal jargon. Do your advisers have a policy of referring people to citizens advice bureaux and the like?

John Strachan: We do not have that much face-to-face contact in the context that we are discussing. We try to reach voluntary agreements that are satisfactory to the debtor and to us.

Robert Brown: Do you think that it would be helpful if you tried to develop a more generalised approach to people's debt problems through the assistance of outside advisers?

John Strachan: I am not sure what we could do apart from advising people to contact those bodies, which we already do.

Robert Brown: Many of the people with whom you deal have multiple debts. Clearly, a regularised recovery procedure should include a weekly payment that would go to all of the creditors and would help debtors to make their affairs more satisfactory. There is surely a case for more proactive working. It would be useful to encourage debtors to go to citizens advice bureaux or money advice centres. Do you have, for example, any exchange liaisons with local voluntary organisations?

Paul Gray: There is no standard or national pattern for that. It is left to the discretion of the managers of Benefit Agency offices and there are local liaison arrangements.

In this case, we are talking about the unit that John Strachan heads, which is centralised and to which cases are handed once they have been through many stages. He runs a specialised debt-recovery operation. Within the mainstream benefits system, there is a policy of encouraging liaison between our operations and the voluntary sector.

There is a difficulty for us and for other creditors as, strictly speaking, other debts that a debtor has are none of our business. Given the structure in which we work, it is reasonable to suggest that we tell people where they can get advice. We do that, even during the course of final legal procedures. We can pass that advice on, but I do not think that we should have a role in managing the overall debt recovery of someone who has multiple debts.

The Convener: Many outstanding issues need to be pulled together. I am sure that members have many questions to ask that will assist them in drawing up the committee's report on the bill. Martin Verity, the clerk, has drawn up a number of questions, which he will present to you in the form of a very tight letter. We will get that to you as soon as possible as our report is due at the end of January. I would like members to get questions to Martin this afternoon.

I thank the witnesses for giving us their time this morning and for replying helpfully to members' questions.

I let that part of our meeting overrun because Robert Brown has asked that the social inclusion report be put on next week's agenda. That will give us time to give the issue the attention that it deserves.

I welcome the representatives of Citizens Advice Scotland to the committee. They are Susan McPhee, Loretta Gaffney and Mary Prior. I apologise for keeping you waiting but I am sure that you were interested in the discussion.

A number of members want to ask you questions. Because we are short of time, I ask you to keep your opening statement short.

Susan McPhee (Citizens Advice Scotland): Each of us had prepared statements to give. I was going to talk about the work that we do. I will do that, if you think that it will be useful.

The Convener: As long as it is brief. Often, such points come out in questioning anyway.

Susan McPhee: Mary, would you like to give your statement?

Mary Prior (Citizens Advice Scotland): My name is Mary Prior. I am the manager of Lochaber citizens advice bureau. I have been involved in the citizens advice bureau movement for 11 years,

initially as a money adviser and as a housing aid worker for Shelter. I have had a lot of hands-on experience with clients for whom the threat of poinding and warrant sale is an immediate reality.

The money advice and housing aid project last year dealt with 150 clients with debts that amounted to more than £1 million. Most of those people had experienced substantial difficulties, particularly with summary warrants. A picture that emerges time and again is of people on low income being forced into a crisis by the arrival of a summary warning that threatens court action for non-summary debt.

While working as a money adviser, I was frequently asked by people outside the advice movement whether listening to people's debt problems every day was a difficult job. People have a great fear of debt, which is why I was asked that question. However, what I found worse was seeing the remorseless drip of poverty in people's lives and families never getting out of the bit. When the threat of poinding is used against such a family, the slow greyness of poverty becomes an acute crisis.

Clients who encounter particular difficulties include those on low incomes in Lochaber, which is served by a rural bureau. It is the only bureau on the west coast between Inverness and Dumbarton—Argyll and Bute does not have a CAB service. Lochaber has a volatile pattern of employment, with a high level of seasonal employment, and changes in circumstances force people into debt. There is also a particularly high level of self-employment—I was quite interested in what the witness from the Benefits Agency said about that. We often find that self-employment masks real poverty and under-claimed benefits.

Communities that rely on shared fishing raise another issue. There can be problems in claiming benefits where large sections of the working population are locked out of benefits. Sometimes people face a summary warrant for local authority debt as well as a threat by the Inland Revenue to lift a settlement when they may have a mandate of 25 per cent on their Inland Revenue bill. Crises can be experienced not only by an individual but by a whole community when the fishing is particularly bad.

Many people have experienced considerable problems with the benefits system, particularly with the re-emergence of community charge debts that are several years old. We have clients who are certain that they were entitled to community charge benefit, but who have received warrants for pre-1993 debts or who have made payments but, because there is a lack of proof of payment and a legal bar to the back-dating of benefit for more than 52 weeks, are in debt for charges that they are certain that they do not owe. I have case studies of such circumstances with me.

That is a quick picture and, because I know that we are pushed for time, I will hand over to Loretta Gaffney.

Loretta Gaffney (Citizens Advice Scotland): I want to say how pleased I am to have the opportunity to reflect the experience of debt of clients of the Easterhouse CAB—we see such clients daily.

I am sure that committee members know about the multideprivation suffered by so many people in the Easterhouse area. That is generally reflected in the work of the bureau, 70 per cent of whose cases relate to money problems, welfare benefits or debt problems.

I will give members a brief background to my experience and, more important, to the work of the bureau over the past 12 months, which will put my evidence into context. I have worked in the citizens advice service for 18 years, 14 of which have been in Easterhouse CAB. The vast majority of the clients seen by the bureau experience poverty—as a result, welfare benefits and debt are major areas of work for the bureau. In the past 12 months, the bureau has been contacted by 5,800 clients and, in addition to that figure, advice workers have undertaken 900 homes visits. Clients have raised more than 8,000 issues, almost 70 per cent of which have related to money problems. The bureau has lodged more than 500 appeals at various tribunals and courts, represented more than 400 individuals and dealt with 2,600 debt-related issues. Over the past three years, we have dealt with cases of the threat of poinding, or of clients coming to the bureau after a poinding has taken place. In 1997-98, the bureau dealt with 280 such cases. In 1998-99, that figure rose by 99 per cent to 557 cases and, from April to December 1999, we dealt with 510 cases.

Tommy Sheridan: I am sorry—could you repeat those figures, as I do not think that everyone heard them?

The Convener: They will be in the record.

Tommy Sheridan: I know that, but for today's meeting—

The Convener: I see—you want them now.

Loretta Gaffney: The figures were 280 in 1997-98. That number increased by about 99 per cent to 557 in the following year. From April to December 1999, we saw 510 cases.

I know that Mary Prior has also brought case studies, and I do not want to go into them in too much detail, but I will give members one example, in order to give a flavour of the cases that we see daily. An elderly couple was in arrears of £81; their goods had already been poinded by the time that

they came to the bureau. The sheriff officers demanded that, to prevent the warrant sale, they increase the £15 per week that they were already paying. As I said, I do not want to go into too much detail, but that is the sort of case that we see all the time.

12:00

The witnesses from the Department of Social Security mentioned the Scottish Law Commission's discussion paper, which I have read—that is an achievement in itself, with the greatest respect. The Scottish Law Commission states the objectives of the law on debt, including the Debtors (Scotland) Act 1987. It says:

"First, the system of diligence should seek to provide effective machinery, in which creditors have confidence, whereby creditors can obtain payment of their debts. Second, within the constraints imposed by the need to maintain an effective system of enforcing debts, it should make available procedures which are designed to have proper regard to protecting those debtors who are subject to diligence from undue economic hardship and personal distress."

In my 14 years' experience of seeing thousands of clients in Easterhouse, those objectives have not succeeded. I do not think that they were ever likely to succeed, given that the act retained such a method of diligence.

I heard again this morning—I noticed that this was in the Law Commission's paper—that the threat of poinding is a "spur to payment". I can see that becoming the new phrase, so I will use it like everyone else. On the face of what appears to be overwhelming evidence, poindings and warrant sales are not effective, yet one of the few arguments left to people who support the current system is that such threats are a spur to payment.

In the first instance, it is presumed that people do not want to pay, but I categorically state that that is not my experience. I am concerned about the threat of poinding being seen as a spur to payment, as the people who experience poinding and warrant sales would not agree with that. I hear of encouragement to pay and so on, but they would say how frightening, intimidating and humiliating that encouragement is. It attacks people's dignity—their very spirit. People who live in the poverty that we see daily face a great struggle to retain their spirit in such severe hardship. As I said, every client we see wants to pay, but is unable to.

The sheriff officers' letter, which the DSS witnesses brought, says, "Yes, contact somebody. Here's the action you can take." It also tells people to

"pay this sum within fourteen days".

Many people would not respond to such a letter; they think that, because they do not have the money, there is no point. If the threat was removed, people might be encouraged to contact sources of assistance. People want to pay their debts, a fact that was supported by the Scottish Office central research unit, which found that most debtors said not that they did not want to pay, but that they were unable to pay.

The Convener: Thank you. I will move straight to questions.

Fiona Hyslop (Lothians) (SNP): First, I thank the witnesses for their written evidence. In particular, the case studies will be helpful in giving us a feel for the issue.

Loretta Gaffney talked about the language used by the DSS and the belief that the threats of poinding and warrant sales were a "spur to payment", rather than intimidating. The DSS used the analogy that warrant sales were like a nuclear deterrent—it may not realise the irony in that, given that we live in a country where Labour and SNP conferences have taken a moral position against the nuclear deterrent.

The Scottish Parliament may make a moral decision about this issue, but we have a responsibility to examine the objective information. I am struck by the figures that you gave us about the increase in the number of cases. Is that related to the fact that people are being pursued for community charge arrears that go back some time?

Loretta Gaffney: Almost all the threats of poinding that we deal with are related to community charge or council tax. What may explain the increase is that, in the years that I was at Glasgow City Council, we usually dealt with one sheriff officer; all of a sudden we were dealing with three sheriff officers, who were collecting for different years.

Fiona Hyslop: There is obviously a more aggressive pursuit of community charge arrears by councils. There is an imperative to deal with warrant sales, as a momentum is building up because of the pursuit of community charge arrears.

On page 8 of your written submission, you mention negotiations with sheriff officers. The evidence suggests that people may be able to deal with one debt but, when there is multiple debt, they are liable to default at a later stage. Are the people with whom you are now dealing getting into arrears with their current council tax payments in order to deal with their previous community charge debt?

Loretta Gaffney: I am glad that you raise that point, as I recently saw figures that showed that, for example, Glasgow City Council's collection rate

had gone down this year. That does not surprise me, because the pressure that is put on people to pay arrears means that they cannot pay their present council tax. If they are being pursued for two or three years, they do not pay for the current year when they start to pay the arrears. The sheriff officers, who are collecting the arrears, are not concerned about the current year, because that is not their remit; it could be argued that, for them, that is next year's work. That is a continuing concern. In addition, when creditors threaten a warrant sale, people immediately pay at levels that they cannot afford, which means that they cannot pay other debts—the cycle becomes chaotic.

Susan McPhee: The case evidence in the briefing shows that there are different ways of enforcing payment of debts when clients are pursued for council tax and community charge. Clients may face a bank or earnings arrestment and a poinding on the debt from one year while a second set of sheriff officers may be carrying out another poinding for debt from another year. Our clients may have to deal with three different debt collections at once.

Fiona Hyslop: They have to deal with different years, different sheriff officers and different forms of enforcement?

Susan McPhee: Yes, but from the same income.

Mr Raffan: I, too, thank you for your written evidence—it is substantial compared to that of the previous group—and for the helpful case studies.

Ms Gaffney said that 70 per cent of her cases related to money. Is that true in CABs throughout Scotland? Is it right to assume that, when you say money, that means debt? What proportion of those debt cases relate to council tax debt?

Mary Prior: I conducted a six-month trawl covering the change of financial year, which I thought might be helpful in showing whether there was an increase in debt. During the six months from January 1 1999, Lochaber—a small rural bureau, although we deal with 6,000 client contacts a year—dealt with 110 debt cases, which involved £400,000 of debt. I have to take out of that figure more than £100,000, which was the amount of debt of three self-employed clients. The idea that self-employed people have income somewhere is not necessarily true—self-employed people are often in deep debt. Of the remaining £300,000 of debt, more than £70,000 of it was at summary warrant.

Susan McPhee: The largest area of inquiries is not debt, but benefits, which make up just under a third of our inquiries. Nationally, out of about 450,000 inquiries, we dealt with about 56,000 new debt cases. On top of that, there are continuing cases; 65,000 continuing cases is an underestimation. We cannot break that down into what is council tax debt, as we do not collect the statistics in that way, but we can say that consumer debt was the largest single increase last year.

Mr Raffan: In paragraph 5 on page 2 of your evidence, you state that £144 million of council tax income was outstanding at the end of 1997-98. Is that figure cumulative or is it for one year?

Susan McPhee: I am not sure. I think that it was for the one year.

Mr Raffan: Those figures are a snapshot. What would be more interesting from our point of view is how much is still owed from when the council tax started. It would be interesting to see the annual figures, as council tax debt is such an important part of this issue—I might make up part of that £144 million if I forgot to pay it for a month.

Susan McPhee: We got that figure from the Accounts Commission.

Mr Raffan: We can perhaps find out the annual figures.

The witnesses from the DSS made a point that relates to what you do. They said that they advised people to get advice from solicitors. I do not know how those people are meant to pay for solicitors, who are—with all respect to Robert Brown—rather expensive. That would only increase their debts further, unless they got very good advice.

In terms of going to the CAB for advice, Mary Prior said that the only service between Inverness and Glasgow was the Lochaber CAB—there is a big gap in coverage in Argyll and Bute. I know that within my regional constituency, in Fife, CAB is—unfortunately—not well represented for local reasons. This is not a criticism—I wish that CAB was well represented all over Scotland—but bureaux are not as prevalent in Scotland as they are in England. There are big gaps in your coverage. The point that I am making is that advice is not as easily available as the DSS indicated.

Susan McPhee: No, it is not. The gap is geographical; proportionately, we are as well represented in Scotland as we are in England and Wales. There are 55 CABs, but about 150 outlets, throughout Scotland.

Mr Raffan: In the introduction to your briefing, you state:

"We also argued for the introduction of debt arrangement schemes as a way forward".

Will you outline the kind of schemes that you have proposed?

Susan McPhee: We have not worked out any

detailed schemes. We have made a comparison with England and Wales. I know that there are problems with the English and Welsh system but we know from our sister organisation—the National Association of Citizens Advice Bureaux—that such schemes seem to provide a way forward for some debtors.

One of the main advantages of a debt arrangement scheme lies not necessarily in its implementation, but in the fact that we could use it as a threat to creditors. If a debt arrangement scheme was implemented, most of the negotiation would still be informal, but it would give us a lever; if creditors failed to co-operate with us—and other advice agencies—we could say that we would apply for a debt arrangement scheme. In England and Wales, the scheme allows an automatic examination of whether the debtor can afford to pay the creditor and whether the debt should be scaled down.

Tommy Sheridan: Thank you. The quality and passion of your evidence is very different from what we received from the DSS. One wonders which organisation is well funded and which survives sometimes on a shoestring.

Loretta Gaffney gave passionate and helpful details about her work over 14 years in Easterhouse. She used the word "spur". I want to use the same word in relation to me, John McAllion and Alex Neil—the sponsors of this bill. I want to home in on the concern that you raised, which is that we should have an overhaul of the debt-recovery system. Poindings and warrant sales are a problem, but they are not the only problem.

I agree that bank account arrestments are not as regulated as earnings arrestments are but that they should be, because bank account arrestments can often be more harmful than earnings arrestments. However, there is also concern about the continued use of summary warrant procedure, which removes the right of a debtor to prove that they should not be accused of being in debt, or that there are extenuating circumstances.

12:15

I hope that you will see the enactment of this bill not as a full stop, but as a spur to further reviews of, and changes to, debt-recovery legislation in the coming months and years. I ask your organisation to support the bill and to state that Citizens Advice Scotland wants a review at a later date. My worry is that, if an organisation that is as influential and credible as yours does not whole-heartedly support the bill, that may wound the case for it. I hope that you accept that none of us thinks that the bill is a full stop. We think that it can be the spur to further action and that, without it, it will take ages until any action is taken.

Susan McPhee: If the bill is all that we are going to get, we will support it, because all our case evidence shows that poindings and warrant sales are detrimental to our clients. In our submissions, we tried to highlight the other problems. We are worried about bank arrestments, because our clients who are on benefits and have bank accounts are increasingly having their benefits arrested. We recently discussed how clients who do not earn enough to have their wages arrested have their bank accounts arrested instead. Those issues need to be addressed urgently.

Loretta Gaffney: I manage a bureau. My position is clear, and I am sure it is shared by many bureaux. I agree with Susan. Other matters need to be looked at, but poindings and warrant sales are the worst form of diligence—in Easterhouse, we support their abolition. We can examine other issues, such as the fact that, as Susan said, people on low incomes are having their wages and bank accounts arrested.

It is difficult to determine what clients suffer when they are threatened with a poinding. Individuals know that sheriff officers can not only come to price their furniture, but force entry to do so, and that that may happen when their children are present. If this bill is all that is on the table, that is fine, because poindings and warrant sales must go.

Tommy Sheridan: I am grateful that you raised those points, Loretta, because the DSS gave evidence about the similarities between the recovery procedures in different countries, and the point needs to be made that Scotland is the only country where a home can be forcibly entered. You cannot forcibly enter a home in England for a walk-in possession order, which is the nearest equivalent there to poindings and warrant sales.

Loretta, from your experience of working in an active bureau, do you accept that one of the problems is that sheriff officers use the threat of poinding and warrant sale if the lump sum is not paid, and that the debtor then goes to someone else to get the money, for example an illegal moneylender?

Loretta Gaffney: Absolutely. As sheriff officers are charged to get as much as they can, they will try to obtain the lump sum. Often, people do not come for advice and, even when they do, they have often paid the lump sum. We are concerned about how people obtain the lump sum. Moneylenders are one possibility.

Mr McAllion: I was interested in your figures on the increase in the use of the threat of poindings, but I was not sure whether they were for Glasgow

or just for Easterhouse.

Loretta Gaffney: They were for Easterhouse.

Mr McAllion: I was also interested in the fact that you linked the figures to Glasgow City Council's appointment of sheriff officers to pursue different years' arrears, with the result that the amount of current council tax collected went down.

This week, Dundee City Council announced its figures for outstanding council tax for the past seven years. Of the £218 million that it was entitled to collect in that time, £10 million is outstanding. Given the overall sum, that is not much; it is about 3.5 per cent. That council does not use poindings and warrant sales, but it is not experiencing an increase in the amount of uncollected council tax. Similarly, West Dunbartonshire Council does not use poindings and warrant sales, and it has not seen a drop in the amount of collected council tax. Your figures suggest that the use of poindings and warrant sales hampers councils' ability to collect current council tax. Do you agree?

Loretta Gaffney: Our experience is that when people are threatened to such an extent and forced to pay for arrears, they do not pay their current bill. Assisting people to claim benefits and to negotiate debts would be more positive and have a better outcome.

Mr McAllion: Would it be possible for other CABs across Scotland to provide the kind of figures on the change in the use of poindings that you provided for Easterhouse?

Susan McPhee: That would be difficult for them, because they would have to trawl through all their cases.

Mr McAllion: It would be useful if they did, because we could compare the figures with what is happening at the council level and see whether there is any correlation.

Mary Prior: We should look at whether there is a substantive difference in debt collection rates between those local authorities that emphasise a rights-based approach to benefit and income maximisation and those that do not—that is relevant.

I would like to answer a point made by Mr Sheridan by using a case study. We had a client with an on-going problem with discounts and rebates. He was in a remote, rural island community. Following our intervention, his total liability to the local authority was eventually reduced from more than £6,000 to £3,000. He is over 60 and self-employed, with earnings of less than £70 per week. However, he received a notice of poinding for a summary warrant debt for DSS class 2 contributions.

We had already written to the DSS on that matter, asking it to look for a long-term back-date on small earnings exception. That letter was lost, so we had to go through two sets of sheriff officers to cancel the poinding the next day. That happened to a gentleman who was more than 60 years old and who had chosen to continue working rather than to go on to full-time benefit. There is an issue regarding remote rural areas, as well as access to advice.

In another case, a lady offered to pay £5 a week to pay off a debt of nearly £1,500. The offer was rejected and a poinding was carried out. That client has long-term incapacities, and has been on incapacity benefit for over 10 years. She has difficulties with bank accounts—making direct debit payments is a problem because of minimum charges. She cannot afford to maintain £50 a month in her account. The sheriff officers who carried out the poinding advised her to continue to pay the £5 a week but would not formally accept her offer; they were taking the money but were not making a formal arrangement. As a result, the threat of a warrant sale remained.

The Convener: That makes the point very graphically.

Karen Whitefield: You said that most of your work was on benefits cases. The citizens advice bureau in Airdrie has just received money from the national lottery to fund a money advice worker. The people who work for that CAB in Lanarkshire tell me—and I wonder whether this is true across the country—that people are often embarrassed and sometimes very ashamed to have got themselves into a difficult situation. They tell me that although more people are coming to ask for help, many people are reluctant to do so.

What suggestions do you have on how we can stop people getting into debt, and on what we can do to help them if they experience serious multiple debt problems? What are your views on community credit unions and income maximisation programmes, which local authorities have often cut back on in recent years?

Mary Prior: I am a member of one of the most recently started Scottish credit unions, the Lochaber Credit Union, which is a geographically based credit union. Because Lochaber has vast landward regions, we decided that—rather than centring on Fort William, which is the main population area—we would take the credit union out to the communities that produced the volunteers to run it. We now have four collection points throughout Lochaber, and we intend to open another three. In rural communities, that will be a very effective way for people to get financial services of which they are often deprived. It will also be an effective way for them to avoid debt management, because the basis of a credit union

is, obviously, that you have to save in order to borrow. Credit unions are a positive way forward.

Debt education and budget education, especially in schools and community groups, are also important. When you do a financial statement for somebody on the computer and you say to them, "All right, let's sit down and look at this: this is what's coming in, this is what's going out, and this is what you have left to pay your creditors," the scales often fall from their eyes and they say, "Goodness me. Now I know why I am not getting out of the bit."

If people have income from benefits, they know exactly where every penny goes—because there are so few of those pennies. But when people's income is more complicated—for example, if they have a double income plus family credit from a previous claim—they often do not know where all the money comes from and goes to. That is when you start robbing Peter to pay Paul.

Loretta Gaffney: Depending on the communities that they serve, different bureaux have different experiences. In the community that I serve in Easterhouse, the difficulty in being able to help is that people generally have inadequate incomes to live on. They have to get into debt just to pay for very basic household goods, clothing or whatever. I can help them negotiate with creditors over budgets, but I have to admit that many of the people I serve could show me how to budget. They budget so well on so little money that it is quite amazing.

I take the point that was made earlier on advice services throughout the country, but we could look at not only the availability of advice but the quality and depth of advice. In this society, with all its complexities of benefit and debt, simple information is not sufficient. Resources are required to represent people in court and in tribunals, and to monitor cases. In Easterhouse, we have a live case load of 1,200, and that requires resources.

12:30

Mary Prior: I can give a simple figure to support what Loretta said. If we break down our financial statement for debtors, as we often have to do, the money allowed for housekeeping works out at 95p per meal. When you are having lunch, you might want to reflect on what that would buy.

Susan McPhee: As was mentioned at the Justice and Home Affairs Committee yesterday, we are joint managers of the Edinburgh in-court adviser project. Because that comes in at a much later stage, it reaches debt clients that the CABs do not reach. One way forward would be to develop in-court advisers throughout the country. I think that that would help.

Last year, for the first time, we started debt awareness week. We hoped that the publicity would help people to deal effectively with their debt. A lot of debt clients bury their heads in the sand out of fear, distress and all kinds of other reasons. A disadvantage of the debt awareness week was that it created a lot more clients for the CABs, which found it difficult to function. As Loretta said, we need more support to offer advice. It may be possible to do that through the development of community legal services—I do not know—but that may be a way forward.

The Convener: Thank you very much indeed, Susan, Mary and Loretta. I know Loretta very well. I am sorry that we did not have more time, and that we kept you waiting for so long. If there is anything else that you would like to draw to our attention later, it would be gratefully received. Your evidence has been very interesting, and I am sure that we will pay great attention to it. Thank you for an excellent presentation.

Goodbye. Excuse me if I keep on talking. I am not being rude. It is just that I am pressurised because we have so many other things on our agenda.

Work Programme

The Convener: We will hear Robert Brown's report on social inclusion next week.

Robert Brown: Yes, because I want to talk to other members of the committee beforehand.

The Convener: Yes. Robert has not had the chance to do that yet, so he will do that first.

Housing Stock Transfer

The Convener: A paper has been prepared updating us on the housing stock transfer. The paper notes previous decisions and gives us a progress report. Are members agreed that we should have a private session on the line of questioning at the end of next week's meeting?

Members *indicated agreement.*

The Convener: Following some e-mail communication, it looks as if we have an adviser who, in principle, is agreeing to act for us, although the final paperwork has still to be worked out. I am not sure if I am allowed to mention names. Martin keeps me right on such things.

Martin Verity (Committee Clerk): It is probably wise not to give the impression that the appointment of a particular person has been made.

The Convener: Members should rest assured that the discussions concerning the housing adviser are being processed, ready for next week.

Mr Raffan: It will presumably be up to the committee to approve any decision.

Martin Verity: At the previous meeting, members remitted the decision on the housing adviser to the convener, Fiona Hyslop and John McAllion. The decision on the drugs adviser was remitted to the convener and Mr Raffan.

The Convener: We have discussed the housing adviser and I think that there is agreement. I would be happy to put the suggested choice to the committee for final approval. The plan is that we will have a private session next week.

Mr McAllion: I know that we were planning to see the Council of Mortgage Lenders together with tenants involved in existing stock transfers. I recommend—and perhaps this can be decided next week—that we go to Queen's Cross Housing Association in Glasgow, which is one of the longest-standing and most successful housing associations. It has a credit union, it has a community business and it has community ownership of housing. The minister has been to that housing association, and she bases a lot of her ideas on it.

The Convener: Do you recommend a visit?

Mr McAllion: Yes, we should visit, and we should hold a session with the Council of Mortgage Lenders there. It would probably have to be on a Monday, because we could not do it on a Wednesday.

Fiona Hyslop: I thought that we were going to see tenants from existing stock transfers.

Mr McAllion: Queen's Cross has already transferred.

Fiona Hyslop: Yes, but what about visiting councils such as Berwickshire?

Mr McAllion: Many of the tenants come from councils. Queen's Cross is basically in Maryhill.

Fiona Hyslop: Sorry. I thought that the stock was out for wholesale in Berwickshire.

Mr McAllion: The idea is to see a successfully established stock transfer which is supported by the tenants. Scottish Homes has said that this is the best one to visit.

The Convener: That should not preclude us from taking evidence from somewhere else. Can we agree that?

Members *indicated agreement.*

The Convener: We will organise the logistics. Are there any further comments about housing stock? I am sorry to be so ruthless about moving on.

Mike Watson: I was wondering about Wendy Alexander's visit to the committee.

The Convener: That will come under future business.

Future Business

The Convener: I will go through the paper on future business point by point.

Point 1, the committee's areas of work, is self-explanatory. As for point 2, our work on the housing stock transfer, we will need to wait and see. On point 3, the housing bill, perhaps we should prepare ourselves by having a look at the guidance on public bills that has been issued by the document centre. On point 4, the Abolition of Poindings and Warrant Sales Bill, we have to make sure that we complete the report, which is timetabled. Point 5 concerns the appointment of an adviser on the drugs inquiry. Keith Raffan and I have done a wee bit of work on this issue.

Mr Raffan: A lot of work.

The Convener: We met Laurence Gruer, who is

helping us to refocus the inquiry, and have made some progress on that.

Mr Raffan: We have had two meetings with him.

The Convener: We are likely to bring the refocused remit of the inquiry to the next committee meeting as well as a report on our progress on the drugs adviser.

Mr Raffan: The only other issue is the question of allowing the clerk to advertise for written evidence. Although we will discuss the issue in more detail next week, we felt that, because of our fairly tight time scale, the sooner we advertise for written evidence, the better. Perhaps that should include not just writing to the 112 drugs agencies, the health boards and the local councils, but considering newspaper and other advertising to get the maximum amount of written evidence.

The Convener: Are committee members agreed to that in principle?

Members *indicated agreement.*

The Convener: Okay. I will move on unless someone stops me.

Point 6 concerns our work on social inclusion, which is coming up next week. On point 7, the voluntary sector, it might be worth timetabling a report on that issue in Martin's long draft timetable at the end of the paper. Point 8 concerns the meeting in Stirling. Is that agreed?

Mr Raffan: What is the purpose of meeting in Stirling?

The Convener: We are moving a committee meeting to Stirling, which has to happen on a Monday. That means that we will not be meeting on Wednesday 23 February. By that stage, we might be able to incorporate some of the work on the drugs inquiry into our agenda.

Mike Watson: Do we have an agenda yet?

The Convener: Only what is mentioned in the paper on future business.

Mr Raffan: Are we going to Stirling for a specific reason or are we just getting out of Edinburgh?

Mike Watson: That is the point that I wanted to make. Although I am all in favour of moving out of Edinburgh, scheduling a meeting without having a clear idea about what we are going to do is like writing a story to fit the headline.

The Convener: Normal committee meetings do not have to be in Edinburgh.

Mike Watson: Will it be a normal meeting?

The Convener: Yes. Although we will try to fit other items into our agenda while we are in Stirling, the principle is that we can have normal committee meetings outwith this formal venue in Edinburgh.

Mr Raffan: I just feel strongly that we are going to run into trouble with the Parliamentary Bureau and the public. We should be going to a specific place for a specific reason, instead of going there just for the sake of doing so. Although I am delighted to meet elsewhere—the more we do it, the better—it is important that we arrange visits around such meetings. We could do a number of things in the Stirling area, such as visit Off the Record, which is a centre for young people and deals with drug-related issues, and integrate those into our meeting.

The Convener: This is also a matter of principle. Although the Parliament building is in Edinburgh, that does not mean that normal committee meetings have to be held here. We do not need a special reason to have a meeting in Glasgow or Stirling. Perhaps we can return to this argument later.

Points 9 and 10 on the paper on future business deal with the visit from the Minister for Communities. We need to make a decision about this issue. The minister has contacted Martin Verity to say that it might be worth postponing that meeting until later in February.

Martin Verity: The committee could have a normal meeting in Stirling on Monday 21 February and still have an evidence session with the minister on Wednesday 23 February.

Robert Brown: Why does she want to change the date of the session?

The Convener: All I know is what Martin has told me, which is that the minister might have more to announce.

Alex Neil: Before or after our meeting?

Mr McAllion: Perhaps we should hear from the minister at the end of our housing stock transfer inquiry, because the more people we see before we see her, the better. It suits us very well to postpone her evidence.

The Convener: Okay. We will hear from the minister later in February; however, we need to get the logistics right, because we are moving to Stirling that week. Is that agreed?

Fiona Hyslop: We are discussing housing benefit reform on 16 February anyway. The question depends on when the minister will have something useful for our inquiry. We should take her evidence on either 16 February or 23 February.

The Convener: If John and Fiona will leave the matter with me, I will liaise with them about it. We certainly need to hear from the minister in February, because we have to bring out our report.

Robert Brown: What general evidence will the minister give to the committee?

The Convener: We do not know.

Robert Brown: Then perhaps we should ask her. Such vague information is not satisfactory.

Martin Verity: I think that the minister feels that, by that date, she will have more information for the committee. There is no indication that she is planning to make a particular announcement or statement.

The Convener: I hesitate to mention the word "Glasgow".

John, Fiona and I will deal with the matter and find out whether any announcements are pending. In any case, we will try to arrange the evidence session for 16 February or 23 February.

Are there any further comments about the timetable?

Mr Raffan: We need to work out a format to tie visits and so on into our constituency diaries. For example, I would prefer to have visits or drug inquiry sessions on Mondays instead of Fridays; and if they can only take place on a Friday, we should be given as much notice as possible. That will help us to organise ourselves.

The Convener: That is a useful suggestion. How does the rest of the committee feel about it? The small reporters groups tend to prefer Mondays rather than Fridays for their work sessions, but we can take the Friday if necessary.

Mr Raffan: The crucial point is that it should be either Monday or Friday, although I think Fridays are more for constituency business.

The Convener: Point 13 on the future business paper deals with correspondence. A number of organisations that write to the committee address their correspondence to the appropriate reporters groups. Now that business such as the drugs inquiry is under way, we need to make sure that we do not lose track of correspondence.

Mr Raffan: I have one point. The Commission for Racial Equality has sent me an invitation to a conference; however, I have no idea about the procedure for conferences. Most organisations ask us to pay for them. As it is probably important either for you, convener, or for another committee member with a specific interest to go to some of those conferences—although we should be selective—we should develop a system that allows us to attend. Although we are not going to start paying out for such events, organisations are very keen for committee members to attend and there have already been a couple of invitations. Is there a fund to pay for such visits?

The Convener: We would need clarification about whether such a fund exists. However, we certainly need some system to make sure that committee members can attend key events. I am worried that we are not being properly represented.

Fiona Hyslop: What is this informal working lunch on Monday, and what are we working on?

The Convener: At a previous meeting, I mentioned that we had been approached by the Scottish Affairs Select Committee, which is conducting an inquiry into poverty in Scotland. You know a lot about this, John.

Mr McAllion: I am not a member of that committee any more; I resigned.

The Convener: The select committee was keen to establish cordial relations with us to prevent turf wars developing. I met the chairman of the committee, David Marshall, and we told each other about what we were doing. In the light of that meeting, I thought it best that the full committees meet and suggested having a working lunch so that members could get to know each other and discuss agendas.

Are there any further comments about the lunch?

Alex Neil: Just my apologies. I cannot come.

The Convener: There are no further items on the agenda. Thank you very much for your forbearance today.

Meeting closed at 12:45.

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