

SOCIAL JUSTICE COMMITTEE

Wednesday 4 April 2001
(*Morning*)

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SOCIAL JUSTICE COMMITTEE

12th Meeting 2001, Session 1

CONVENER

*Johann Lamont (Glasgow Pollok) (Lab)

DEPUTY CONVENER

*Ms Sandra White (Glasgow) (SNP)

COMMITTEE MEMBERS

*Brian Adam (North-East Scotland) (SNP)

Bill Aitken (Glasgow) (Con)

*Robert Brown (Glasgow) (LD)

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Karen Whitefield (Airdrie and Shotts) (Lab)

*attended

THE FOLLOWING ALSO ATTENDED :

Jackie Baillie (Minister for Social Justice)

Ms Margaret Curran (Deputy Minister for Social Justice)

Mr Kenneth Gibson (Glasgow) (SNP)

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

Fiona Hyslop (Lothians) (SNP)

Tricia Marwick (Mid Scotland and Fife) (SNP)

Tommy Sheridan (Glasgow) (SSP)

Mike Watson (Glasgow Cathcart) (Lab)

CLERK TO THE COMMITTEE

Lee Bridges

SENIOR ASSISTANT CLERK

Mary Dinsdale

ASSISTANT CLERK

Rodger Evans

LOCATION

The Chamber

Scottish Parliament

Social Justice Committee

Wednesday 4 April 2001

(Morning)

[THE CONVENER *opened the meeting at 10:02*]

Housing (Scotland) Bill: Stage 2

The Convener (Johann Lamont): Welcome to this meeting of the Social Justice Committee to consider the Housing (Scotland) Bill at stage 2. We have with us several MSPs who are not members of the committee. I welcome them, and I welcome Margaret Curran, Jackie Baillie and the Scottish Executive officials who are with them.

I will outline how we will proceed. Some of you may have heard this before, but I think that it will be worth while to repeat it, as it is rather complicated. I will explain the procedure as clearly as I can. Stage 2 procedures are still fairly new to most members. It will be helpful if members check that they have a copy of the bill, the marshalled list of amendments that was published this morning, and the grouping of amendments. The amendments have been grouped to facilitate debate; the order in which they will be called and moved is dictated by the marshalled list. Members will have to get used to moving between the grouping and the marshalled list.

All amendments will be called in turn from the marshalled list and will be taken in the order in which they appear in that list. We cannot move backwards in the marshalled list; once we have moved on, that is it.

There will be one debate on each group of amendments. If it is in the group, members may speak to their amendment, but there will be only one debate for each group. In some groups there may be several amendments. Some may be technical and some may be more substantive. I will call the lodger of the first amendment in each group to speak to and move the amendment. I will then call other speakers, including all the lodgers of amendments in the group. Members should note that, unless they are speaking to the first amendment in the group, they should not move their amendments at that stage. Members should also note that calling them to speak is at my discretion. I will call members to move their amendments at the appropriate time. Other members should indicate in the usual way that they wish to speak.

Following each debate, I will clarify whether the member who moved the amendment wishes to press it to a decision. If not, he or she may seek the agreement of the committee to withdraw the amendment. If a member wishes to withdraw an amendment, but another member disagrees, we will then put the question and proceed to a division, which will be conducted by a show of hands. It is important that members keep their hands raised until the clerks have fully recorded the vote. Only members of the Social Justice Committee may vote. Other members of the Parliament may speak to or move amendments, but they may not vote.

If any member does not wish to move their amendment, they should simply say, "Not moved," when the amendment is called. After we have debated each amendment in the group, the committee must agree to each section or schedule. I am happy to allow a short general debate before I put the question on any section or schedule, because it may be useful to allow a discussion of matters that were not raised in amendments. As was said the last time that we had a stage 2 discussion, it is not compulsory to speak. It would be helpful if members were disciplined in that respect.

Members should be aware that the only way in which it is permitted to oppose agreement to a section is by lodging an amendment to leave out the section. If members want to delete an entire section, they must have lodged an amendment to do so. A section cannot be opposed if such an amendment has not been lodged. If a member wants to oppose the question that a section or schedule be agreed to, he or she has the option of proposing a manuscript amendment. If that happens, it is my decision whether to allow the amendment.

I draw to members' attention the fact that amendment 95, in the name of Kenny Gibson, will now not be moved. Instead, amendment 111 will be moved at the appropriate time. I understand that that amendment has been circulated.

I will say something about the casting vote. It may be useful to the committee if I state at the outset of this stage 2 process that, should there be a tie, I will use my casting vote to maintain the status quo of the bill. That is likely to be a no vote. As is the case with the Presiding Officer, the convener is free to use their casting vote as they wish. This announcement should not be regarded as a precedent for other committee business in future, but it will certainly hold for today.

Section 1—Homelessness strategies

The Convener: We will now move to the first group of amendments. Amendment 25, in the name of the minister, is grouped with amendments 26, 64, 27, 65, 28, 6, 30, 31, 32, 72 and 76. If amendment 25 is agreed to, I will not call amendments 26, 64, 27, 65 or 28 at the time of voting, as they will have been pre-empted. If amendment 26 is agreed to, amendment 64 cannot be called. The minister will now speak to all amendments in the group and move amendment 25.

The Minister for Social Justice (Jackie Baillie): I think I understood what you said, convener—just.

As we begin stage 2 of the Housing (Scotland) Bill, I note that part 1 seeks to put into effect the recommendations of the first report of the homelessness task force. This part of the bill significantly extends the rights of homeless people. I believe that it will be seen as a landmark in our efforts to tackle homelessness in Scotland.

As chair of that task force, I pay warm tribute to its representatives, including the Convention of Scottish Local Authorities, Shelter Scotland, the Scottish Federation of Housing Associations and the Scottish Council for Single Homeless. I place on record my thanks to them. We had some vigorous debates, but in the end we produced an agreed report with a carefully crafted set of proposals. Of course, those organisations have their own points of view—indeed, we will see some of them resurfacing and being put to the committee. However, I believe that the task force struck the right balance in the interests of homeless people. I hope that the committee will recognise and support the task force's proposals.

The first set of amendments deals with homelessness strategies. The task force recognised that a number of local authorities have developed or are developing homelessness strategies. The task force was keen to encourage that and therefore recommended the creation of a statutory duty in section 1.

The task force also made it clear that the strategy should not be left to the local authority housing department operating in isolation, but that it should be a corporate duty on the local authority and that it should be drawn up with other local partners, including statutory agencies such as the health board, other housing providers and the voluntary sector. Section 1 places a general duty on local authorities to draw up a homelessness strategy based on guidance that is issued by Scottish ministers. It has always been our intention that that guidance should be drawn up in consultation with the homelessness task force, and members will recall that I gave an undertaking

to consult the committee, too, before issuing guidance or producing secondary legislation.

Section 1 is very broad. Members who have commented on it undoubtedly want it to be more specific in setting out the content and process of drawing up a strategy. However, I am anxious not to be too specific, in case we introduce inflexibility. We would not want to create a situation in which the task force or the committee wanted to proceed in a certain direction but was prevented from doing so because the section was too specific or inflexible. Nevertheless, we have been keen to respond to the concerns that have been expressed by clarifying some of the key points relating to homelessness strategies. Accordingly, the amendment that we have lodged deals with those points.

Amendment 25 contains two different elements. First, it makes it clear that the strategy should be based on an assessment of homelessness in the local authority's area. Secondly, proposed subsection (1A) gives Scottish ministers the power to require—not simply request—that a local authority include specific matters in its strategy and to stipulate the period that the strategy should cover, the time by which it is to be submitted and its form.

Amendment 25 also addresses the main points that have been raised by MSPs. Fiona Hyslop has made a brave attempt to pull some of those together in amendment 64, but we believe that that amendment is not necessary because of the Executive's amendment. Amendment 26, in the name of Brian Adam, is also unnecessary, as we believe that it is better not to specify in primary legislation the date by which strategies must be submitted. Some authorities are more advanced than others, and I do not believe that a one-size-fits-all approach would be right in this instance. Amendments 27, 28 and 30 to 32, in the name of Brian Adam, which introduce references to an action plan, would add nothing. A strategy will include action points and, if anyone has any doubts on that matter, we will certainly disabuse them in the proposed guidance.

I have much sympathy with the emphasis that amendment 6, in the name of Robert Brown, places on rent deposit schemes and on protecting the interests of children. However, the terms in which those points are expressed are too specific for inclusion in the bill. I shall ensure that they are considered when we draft the proposed guidance with the homelessness task force, and we will consult the committee on that guidance. We should be able to include a provision that relates to the interests of children in this part of the bill. I shall return to that matter later, when we consider the section on the duty to prioritise the interests of children. Robert Brown's point about consultation

is also dealt with in a later Executive amendment. We will discuss the practicality and desirability of targets and time scales with the homelessness task force as we work out guidance.

In the light of amendment 25, and on the basis of what I have said, I hope that the members who have lodged amendments will be prepared not to move them.

I move amendment 25.

The Convener: We will vote on amendment 25 first. If it is agreed to, I shall not call the other amendments, although they will form part of the debate.

Ms Sandra White (Glasgow) (SNP): Surely members who have taken the trouble to work on and lodge amendments and turn up should be heard. That would not affect the vote.

The Convener: Absolutely. Let me explain again. Only the first amendment in the group is moved: all the rest are discussed as part of the debate. Later, the first amendment in the group is pressed or not pressed before the others are moved or not moved.

If the first amendment in this group is agreed to, because of the pre-emption rule we will not vote on the other amendments in the group. However, I am not precluding debate on those other amendments. The other amendments are moved or not moved. However, if the first amendment in group 1 is agreed to, we will not vote on the other amendments, as they will have been pre-empted. However, I am not precluding debate on those amendments.

I call Brian Adam to speak to amendments 26 to 28, 30 to 32, in his name, and, of course, to the other amendments in the group.

Brian Adam (North-East Scotland) (SNP): I recognise that, in lodging amendment 25, the Executive has made some improvements to the initial proposals in the bill. I also recognise that the Executive has taken some trouble to consult those who have an interest in this area. However, naturally enough, I am disappointed to find that the minister is not willing to be a little more specific by accepting the need for a time scale in relation to some of the proposals in amendment 26.

10:15

Convener, I seek your guidance on whether amendment 26 is incompatible with amendment 25, as I do not believe that it is. Amendment 26 would merely amend the amended section by inserting a time scale. I am willing to accept your guidance, as I recognise that some of the other amendments in the group may fall if amendment 25 is agreed to.

If a time scale is not placed on some of the proposals, significant slippage is likely to take place. I recognise that we do not have to take a one-size-fits-all approach, but we do not have the guidance yet. If we did, we might have a more informed debate. However, given that we do not, there is nothing in the bill to prevent wildly different approaches from being taken throughout the country.

The time scale that I am proposing is not unreasonable. The proposals in the bill have been in the public domain for a considerable time. I cannot believe that the bill will not be enacted within a few weeks or months; local authorities that are not preparing for that are remiss in their duty.

The minister commented on the inclusion in the bill of the term "action plan", which is the subject of a number of my amendments. It is important to include action plans in the bill, as it is all very well to have a strategy, but if there is no action at the end of that strategy, there is little or no point to it. It has been my experience elsewhere that much time and effort can be put into drawing up strategies, but if there is no action at the end of that process, they are of no value.

I am interested in the minister's assurance that the guidance will refer to action points, but, as we do not have that guidance, I find it difficult to accept her assurance. I cannot see what the problem is, or how the inclusion of the term "action plan" in the bill would detract from the minister's proposal, as its inclusion would reinforce the importance of action. That would not tie the Executive down; in fact, it would tell those who must implement the bill that action is expected of them, rather than simply relying on the guidance to do that.

I am glad that the minister recognised that my colleague, Fiona Hyslop, had made a genuine effort to improve the bill. I suspect that Fiona Hyslop's amendment 64 is a little stronger than the minister's amendment 25, so I am happy to support amendment 64.

I hope that the minister is willing to accept, either at stage 2 or at stage 3, that a reference to an action plan should be included in the bill. That would strengthen the bill and would not close down options, as it would merely inform those who must implement the bill that they will have to act.

The Convener: I will deal with the status of amendment 26 should amendment 25 be agreed to later.

I ask Kenny Gibson to speak to amendment 64 and other amendments in the group.

Mr Kenneth Gibson (Glasgow) (SNP): I welcome amendment 25, as far as it goes, but

amendment 64 is more robust. I do not want to reiterate a lot of what Brian Adam said, but no time scales are associated with amendment 25, whereas amendment 64 lays down time scales. The bill has already been delayed for a long time. People want to see action, so it is important that the bill contains provisions for an action plan.

I hope that the minister will look positively on amendment 64, and withdraw amendment 25, because it strengthens the bill. Given that we do not know when guidance will be produced, amendment 64 will make the bill much more effective, and will deliver a more positive response to homeless people than will amendment 25. I hope that the minister will withdraw amendment 25 in favour of amendment 64.

The Convener: I invite Tricia Marwick to speak to amendment 65 and other amendments in the group.

Tricia Marwick (Mid Scotland and Fife) (SNP): I welcome strongly the proposals for local authorities to produce homelessness strategies. The strategies, combined with the new duties to provide all homeless people with a minimum package of rights, will make a genuine difference to homeless people.

Amendment 65 seeks to strengthen the scope of the homelessness strategies. As the minister is aware, there are three strands to tackling homelessness effectively: prevention, immediate alleviation and sustainable solutions. As the minister has already said, the homelessness task force that was set up by the Scottish Executive examined those three aspects.

Amendment 65 seeks to ensure that homelessness strategies address the whole picture. It instructs local authorities not to end homelessness in their areas, but to take a broad look at how individuals' homelessness might best be resolved. It will lead to a realistic assessment of the resources that are required to tackle homelessness effectively, because it is in no one's interest for people to become homeless time and again. It damages them, it damages families, and it is expensive for all the services that are involved, in addition to creating additional work.

As the minister knows, there is increasing awareness—and forthcoming research will show this—that a number of households repeatedly present as homeless. For them, prevention strategies have failed, often because they are housed in unsuitable accommodation—for example, it might be unaffordable or they might have difficulty getting furniture. I seek to put more up front not just the word “alleviating”, but the phrase “seeking to resolve” with regard to homelessness in local authority areas.

Amendment 65 has the support of the Scottish

Council for Single Homeless and Children in Scotland.

The Convener: I call Robert Brown to speak to amendments 6 and 72, and other amendments in the group.

Robert Brown (Glasgow) (LD): First, I have some introductory remarks. We have all gone through the procedure of trying to get a grip on the amendments. I confess that I contributed a number of them. I have found the time scales extraordinarily difficult to meet. I am sure that the clerks have also found that to be the case. The Procedures Committee must consider that with some urgency. I say that in passing because, not to beat about the bush, it is quite an intellectual exercise to understand and properly consider the amendments. Having said that, I welcome Jackie Baillie's observations and the approach that she has taken.

In speaking in support of my amendments in the group, I will make some general comments. I was reassured by Jackie Baillie's undertaking that she would take on board the points in my amendment 6. However, there would be merit in emphasising targets and time scales. I am not bothered whether that is done in subordinate legislation, in guidance or in the bill, but there is a general feeling across the committee, which was expressed in its stage 1 recommendations, that targets and time scales have to be reasonably tight. I accept that they might be different for different local authorities, but I hope that the minister will take seriously the demand for targets, time scales and action points.

The rent and deposit payment schemes are important issues, as the minister indicated. It is not just a matter of the existence of the schemes; they must be properly supported.

The business of paragraph (c) of my amendment, which refers to children leaving care and tenants leaving tied houses, is perhaps slightly obscure, but such events are foreseeable and should be primarily dealt with not by homelessness legislation but through mainstream accommodation and in a more ordered way. I hope that the Administration will take that point on board.

I think that the matter of consultation has been dealt with in the debate on amendment 6, as has the matter of the Children (Scotland) Act 1995, and I am happy with the assurances that the minister gave. However, I return to the general point that it would have been helpful if the bill had been child-proofed at an earlier stage. That would have cast a different light on some of the matters that have arisen.

In relation to amendment 72, I am prepared to accept the minister's assurance at this point, but I

am bound to say that I thought that that amendment was pretty much in the form in which one would want to see it. The homelessness strategy needs a steer in favour of children and young people, and the amendment highlighted the way in which children's schooling, care provision and so on are affected by homelessness decisions. That amendment was supported by Children in Scotland and by the cross-party group on children and young people. It is important that that be considered.

Furthermore, there is a good deal in Mike Watson's amendment 76 that could be taken on board by the Executive. It pins down the sort of things that need to be done, and I understand that it emanates from suggestions by Shelter Scotland at an early stage. I recommend to the Administration that it be taken on board as well.

Mike Watson (Glasgow Cathcart) (Lab): The aim of amendment 76 is to lay out clearly the development of the review, to ensure that all local authorities follow the same procedure and have the same objectives when creating the benchmarks against which homelessness strategies can be judged.

I am sorry that I was not in the chamber when the minister made her opening remarks, but I heard them elsewhere. She said that the one-size-fits-all philosophy was not appropriate. I accept that, but the issue is not about size; it is about ensuring a commonality of approach to this important issue. It is accepted that there are vast differences in the scale of the problem, not just because of the differing sizes of local authorities but because of the differing problems within those local authorities. Nonetheless, I think that it is important that the bill contain a statement that is as firm as the one in my amendment, to ensure that all local authorities are involved in the same way.

The purpose of a review of homelessness is to ensure that the local authority is aware of the current levels of people presenting as homeless and of the services that are available in the area to prevent and alleviate homelessness. That benchmark information will be essential in the light of the new duties that have been placed on registered social landlords elsewhere in the bill.

The social rented sector is changing perhaps more dramatically than it has ever done. Other social landlords will share the local authorities' legal duty to house homeless people. The homelessness strategy cannot be truly effective unless it is based on accurate information on current provision across the social rented sector. It is important that other agencies and landlords are involved in the homelessness review, to ensure that there is a joined-up approach and that there are no gaps in provision.

Some local authorities have developed homelessness strategies that have followed different methods. As I said, it is important that we have a more concentrated and common approach. The amendment sets out a framework for authorities to ensure consistency—of approach rather than size—throughout Scotland while allowing for some local flexibility.

In its laying out of what a review should consist of and of what a homelessness strategy should cover, amendment 76 mirrors the Homes Bill that is currently going through the UK Parliament. I believe that the amendment adds necessary force to the aim of preventing homelessness. In closing, I should say that the amendment is supported by Shelter Scotland.

10:30

Fiona Hyslop (Lothians) (SNP): I shall speak to amendment 64, which is in my name, and amendment 65, which I am supporting. I would also like to refer to amendment 76, in the name of Mike Watson, and amendment 6, in the name of Robert Brown.

Basically, everybody is trying to do the same thing. Indeed, the Executive has recognised that simply having a reference to "strategy" in the original bill might have been insufficient, and that we had to expand on what is meant by that. Brian Adam mentioned action plans and time scales, and Mike Watson has just explained what "an assessment" might mean. There is a general recognition that a strategy could just be a piece of paper, and everybody wants to ensure that it comes alive and that action will be taken. We all want provisions in the bill that will make that happen.

Amendment 64 is compatible with amendment 6, in the name of Robert Brown. Robert's amendment tries to set out what the strategy should be, and amendment 76, in the name of Mike Watson, tries to set out what the assessment should contain. If we are seeking to give reassurance that we are not just setting out the processes, but actually including measures in the bill that will recognise what assessments and strategies will involve, that will make for a better bill.

One of the concerns raised at stage 1 by a number of committees, including the Subordinate Legislation Committee, was that there was not enough in the bill. The challenge for the committee is to decide how much should be in the bill and how much we are prepared to leave to guidance. Brian Adam, Robert Brown and Mike Watson have articulated a strong argument for having more in the bill. A combination of amendments 6, 76 and 64 would go further than Executive amendment 25

would. I therefore urge members to reject amendment 25, but to consider amendment 64 instead, complemented by amendments 6 and 76.

Karen Whitefield (Airdrie and Shotts) (Lab): I would like to comment on amendment 26, in the name of Brian Adam. I appreciate what Brian is trying to do by setting a time scale. We are all keen to ensure that the homelessness strategies are in place. However, one of the main concerns of many people who gave evidence to the committee was about the need for genuine consultation, and I think that a time scale of three months would limit genuine consultation. I know that Shelter Scotland itself has expressed concerns about that. I would hate us to implement strategies that had not been fully consulted on and on which people had not been able to have a say; the strategies should achieve what we all want them to achieve.

Ms White: I congratulate the minister on lodging amendment 25, which I think is a step in the right direction. Amendments 64, 6 and 76 strengthen amendment 25. Karen Whitefield has said that three months might not be long enough for consultation, but we have to have some form of time scale. We cannot leave it quite as loose as it is in the bill as drafted. I welcome amendment 25, but I think that, if we do not have a time scale on the strategies and action plans, that very good amendment and the others that follow it will be lost.

I ask the minister to accept some of the other amendments that have been lodged. Let us get on with actually doing something to help homeless people. Three months might be too short a time scale, so perhaps she will bend a little and accept six months. However, we have to have a time scale of sorts.

Jackie Baillie: We have no doubt that homelessness strategies will be crucial in ensuring that homelessness is tackled effectively at a local level, so I welcome the debate on the precise extent and scope of those provisions.

Amendment 72, in the name of Robert Brown, takes account of the needs of children and young people. We have absolutely no problem with the principle of that. It is just a question of whether it should be covered in detail in the bill itself or covered in guidance. When we come to the section on the priority that applies to children, I shall say more about that.

To Mike Watson, I repeat that I have no difficulty in giving him an assurance that the approach will meet the required consistency and that we will couple that to local flexibility. We must balance how much is specified in the bill with how much is covered in guidance and be careful to avoid unnecessary prescription in the bill, which might

be inappropriate in the future.

The provision for Scottish ministers to specify requirements allows ministers to insist that some matters are included, backed up with additional guidance. To Robert Brown, I say that we will consider targets and time scales in the context of that guidance. The provisions allow us to develop our thinking in consultation with the homelessness task force and to learn from experience. It is surprising that amendment 64 does not include the concept of a requirement from Scottish ministers and therefore leaves everything to guidance. That would create a much weaker position than amendment 25 will.

Many members have said that they have not seen the guidance. It is not usual for guidance to be produced with a bill. However, an in-depth consultation process about the form and content of the guidance is in train with people who work in the field. That will come back to the committee.

We heard much discussion about time for preparing strategies. Karen Whitefield was right to make the point that Shelter has made—a tighter time scale is needed, but it must be accepted that differences exist between local authorities. A small local authority cannot be compared with a larger city-wide authority. Shelter also worries that timetables could be too restrictive and could lead to ill-thought-out and rushed strategies that did not provide enough time for consultation or consideration. I agree with that point. We need the flexible approach that the bill will provide, if amendment 25 is agreed to. We have now got the balance right, because we have listened to people.

I will provide a final reassurance. The quality of the strategy—in its implementation, scope, form and content—will not be left to chance. The new executive agency will monitor that closely. We have taken a belt-and-braces approach to section 1. I urge the committee to support amendment 25.

The Convener: I will deal with the pre-emption of amendment 26, which Brian Adam raised. The dispute is not over whether the ideas in amendments 25 and 26 are compatible. If we agree to amendment 25, it will become technically impossible to amend the text that amendment 26 would change, as that text will no longer exist. Therefore, amendment 26 will fall.

Robert Brown asked about time scales. I hope that, as we scrutinise the bill, we will reflect on the process as well as the result. A deadline of half-past 5 on Monday does not particularly inconvenience members who have been engaged in the politics of the issue for more than a year, but there is no doubt that it inconveniences those who must gather the amendments together into a form that is comprehensible for the committee. We should record our thanks to the clerks and all

others involved in the process, which is tortuous at best. Such a tight time scale seems unnecessarily helpful. I hope that the Procedures Committee will consider pulling back the deadlines. If members know the politics of the issue, we should be able to lodge amendments by Thursday or Friday, which would allow a rational approach to gathering them together for the committee's consideration.

The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Brown, Robert (Glasgow) (LD)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Convener: The result of the division is: For 4, Against 2, Abstentions 0.

Amendment 25 agreed to.

Robert Brown: In light of the assurance that the minister gave, I will not move amendment 6.

Brian Adam: I am not quite as keen as Robert Brown is on accepting the minister's assurance, so I move amendment 6.

The Convener: The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Brown, Robert (Glasgow) (LD)

The Convener: The result of the division is: For 2, Against 3, Abstentions 1.

Amendment 6 disagreed to.

The Convener: We now move to the second group of amendments, entitled equal opportunities. Amendment 68, in the name of Kate MacLean, is grouped with amendments 67, 75, 78, 104, 105 and 110, all in her name.

Kate MacLean is unable to attend. Karen Whitefield will move amendment 68 and speak to all the amendments in the group.

Karen Whitefield: Kate MacLean has asked that I give the committee her apologies. Unfortunately, constituency business in Dundee this morning means that she is unable to be here.

The amendments in Kate MacLean's name are straightforward and seek to equality-proof the bill. The Equal Opportunities Committee closely considered the bill and made several recommendations; it rightly believes that equal opportunities should be at the heart of all legislation.

The amendments in Kate MacLean's name seek to ensure that the bill recognises that and that local authorities and registered social landlords, in implementing the bill, have equal opportunities strategies in place. They should give full recognition to the need to ensure that no one is unnecessarily discriminated against—indeed, that no one is discriminated against at all.

For that reason, I ask the Executive to consider supporting the amendments in Kate MacLean's name.

I move amendment 68.

Ms White: I am sorry that Kate MacLean is not here. I wanted to ask for clarification; Karen Whitefield might be able to provide it.

Amendment 68 mentions "equal opportunities requirements". Of course, everyone agrees with that, but the amendment also mentions homelessness strategies. Is it the intention that equal opportunities strategies will be written into a homelessness strategy through local authorities and RSLs? I would like clarification and more information on how that could be achieved.

Jackie Baillie: I am happy to support the principle of the group of amendments. We accept the need for a reference to the importance of equal opportunities in relation to homelessness strategies and at other key points throughout the bill. We are sympathetic to the amendments that Kate MacLean has lodged and which Karen Whitefield has explained to us. However, the outcome that we are all after would be better dealt with through a single, comprehensive provision, which would be introduced later in this stage of consideration of the bill.

Our intention is that such a provision would, at a minimum, apply to all the strategies: the homelessness, tenant participation and local housing strategies. We would also expect the equal opportunities duty to apply to Scottish ministers in their publishing of a code of good practice and issuing of guidance, which we have spoken about, and which is covered in sections 70 and 71.

The issue is complicated as equal opportunities is a reserved matter, as set out in schedule 5 to

the Scotland Act 1998. We are considering how far we can go with the general provision within the competence of the Scottish Parliament.

Should any problem arise with the framing of the general provision, I am happy to give a further commitment that, if we cannot go with it, the Executive would introduce specific equal opportunities provisions into each and every section of the bill as appropriate at stage 3.

On amendment 110, I hope that we have made it clear that we are committed to the general principle of an equalities provision at the end of the bill; I do not believe that the suggestion in the amendment would necessarily be a valuable use of our time. Section 101 deals with commencement. Commencement orders are not subject to any parliamentary procedure. Therefore, it is slightly illogical to try to impose a requirement to lay a draft commencement order and to have that draft approved by the Parliament. A bill becomes an act after it has been passed by the Parliament and receives royal assent. As it has already been approved in being passed, it is not necessary to have approval of the act coming into force. We do not think that the amendment is necessary. The matter will be covered in a general provision, which we will introduce at a later stage.

I hope that, in light of those commitments and our absolute assurance that we will bring those proposals back as a general provision, Karen Whitefield will feel able to withdraw amendment 68.

Karen Whitefield: I discussed with Kate MacLean the various scenarios of how the Executive might deal with her amendment, and both she and the Equal Opportunities Committee feel that the onus for equality-proofing legislation should be on the Executive. As long as she has received the assurances that the minister has given, that the Executive will lodge amendments at stage 3, she will be happy with that and as a result I will not press the amendments.

Amendment 68, by agreement, withdrawn.

10:45

The Convener: The third group of amendments relates to guidance on, and the publication of, homelessness strategies. I should have said that we will dispose of the other amendments in the equal opportunities grouping as we reach them in the marshalled list, but of course everyone knew that.

Amendment 66, in the name of Kenny Gibson, is grouped with amendments 29 and 73.

Mr Gibson: If the bill states that "Scottish ministers may issue guidance",

the implication is that they may not, if they so wish. Amendment 66 tightens up that wording by replacing "may" with "shall", to ensure that guidance is issued. Furthermore, I have added a time limit of three months to ensure that any guidance is issued within a reasonable time scale. If the bill does not contain such a stipulation, any guidance could be issued many months later, which is something that we want to prevent.

I move amendment 66.

The Convener: The minister will now speak to amendment 29 and the others in the group.

Jackie Baillie: As the other amendments in the group illustrate, consultation is obviously important. In response to amendment 66, I understand that the difference between "may" and "shall" is a drafting nicety. I have given our policy commitment several times to the committee, and do not hesitate to do so again.

With regard to consultation, we expect local authorities to work with registered social landlords, health boards and other statutory and voluntary agencies in their area, as well as taking into account the views of homeless people. I can assure Kenny Gibson that we will issue guidance on the matter; indeed, we have already begun to prepare it. However, a three-month target is a ludicrous requirement and does not allow for proper consultation. We are very keen to get the consultation right, as that will strengthen the strategy and the guidance.

It is important that strategies are made available to members of the public. I do not want to give anyone the impression that any such strategy will be simply a glossy brochure, and we believe that our amendment 29 gets the balance right.

Although I agree with the intention behind amendment 73, I fear that, in practice, it would simply mean that local authorities would use the 28-day time limit for supplying copies of the strategy to members of the public as a norm rather than as a maximum.

I therefore ask the committee to support amendment 29 and to reject amendments 66 and 73. Amendment 29 contains two elements. Proposed section 1(2) makes it clear that the guidance can cover consultation with other parties, while proposed section 1(2A) makes it clear that a local authority must provide a copy of the strategy to any person who requests it.

I move amendment 29.

The Convener: No, you don't. You will get your chance later.

I call Tommy Sheridan to speak to amendment 73 and to the other amendments in the group.

Tommy Sheridan (Glasgow) (SSP): The minister said that the 28 days suggested in amendment 73 would become the norm, not the maximum. However, for many people trying to get access to public documents, that time limit would still be an improvement. The bill must contain a stipulation that any member of the public has the right to secure a free copy of the homelessness strategy of the relevant local authority within that time scale. I am worried that charging people for copies of the strategy would act as a deterrent.

I appreciate what the minister said in relation to documentation; I do not expect the strategy document to be a glossy document either. However, I think that the stipulation should be clear, up front and in the bill. A time scale, as well as the fact that the document will be free of charge, should be stipulated.

Brian Adam: I wholeheartedly support amendments 66 and 73. The reference to the cost of the document is important. If the wording is left as it is, local authorities will presumably have discretion as to whether and what to charge. I cannot imagine that there will be queues of people outside local authorities' offices up and down the land demanding hundreds of free copies of the homelessness strategy, but if someone feels that they are being dealt with unfairly and wants to know the background to a decision, access to the strategy is important, as is the cost of the document.

I find it hard to believe that councils will deliberately delay issue of the document until the 28 days are up. I think that that is a very weak argument. It has been my experience that the views expressed by Tommy Sheridan with regard to the turnaround time for documents is probably fairly accurate: 28 days would be an improvement.

I accept that the minister has made an improvement in amendment 29, which would allow or compel local authorities to make copies of the homelessness strategy available, but if that is done against a background of no time scale—this does not require consultation; it requires only the issuing of a document—I do not think that there is a particular problem with our normal argument about a time scale. The omission of a reference to the cost is significant and I would prefer it if amendments 66 and 73 were passed.

Jackie Baillie: I have no problem with the issues that have been raised about cost and I take on board some of the points that have been made. As a general principle of freedom of information, it is up to the body that is providing the information to decide whether to charge for it. We would obviously want the information to be provided at a cost that would not provide a barrier to anyone who wished to access it.

My experience, having worked in a local authority, is that if someone is given a time limit of 28 or 21 days, pressure of work means that that regrettably becomes the normal time taken rather than a maximum. We are keen for the committee to support the Executive's position, which we feel is far more comprehensive. It attempts to take on board the points about consultation and making information publicly available.

The Convener: Kenny Gibson will wind up on this group. Could you indicate whether you intend to press or withdraw amendment 66, Kenny?

Mr Gibson: I intend to press amendment 66.

Amendment 29 does not make any sense when it is read with the bill. The section reads:

"The Scottish Ministers may issue guidance, either to local authorities generally or to a particular authority, as to the form and content of",

and the amendment would add:

"and an assessment of a homelessness strategy and as to consultation of a proposed strategy."

That does not make any sense. On that ground alone, I think that amendment 29 should be bombed out.

Secondly, the minister spoke about a norm, but a three-month limit would focus minds and ensure a sense of urgency with regard to consultation. If no time limit is set, it is always "Mañana, mañana." I support, and wish to press, amendment 66.

The Convener: The question is, that amendment 66 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 66 disagreed to.

Mr Gibson: Is amendment 29 competent, given the way it reads?

The Convener: I understand that we are prohibited from using commas in legislation, but if you can imagine them there, the text makes sense. The other thing that you should understand is that we have the safety net of stage 3, if the amendment does not make sense and if you remain dissatisfied with it.

Amendment 67 not moved.

Amendment 29 moved—[Jackie Baillie].

The Convener: The question is, that amendment 29 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

Brown, Robert (Glasgow) (LD)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Convener: The result of the division is: For 4, Against 2, Abstentions 0.

Amendment 29 agreed to.

Amendment 30 moved—[Brian Adam].

The Convener: The question is, that amendment 30 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 30 disagreed to.

The Convener: We now come to amendment 69, which is grouped with amendments 70, 71, 33 and 74. All the amendments in the group are in the name of Kenneth Gibson. He should speak to all the amendments and move amendment 69.

Mr Gibson: Amendment 69 would ensure that local authorities review their homelessness strategy or action plan. Amendment 70 would ensure that the homelessness strategy is reviewed annually. Amendment 71 would require local authorities to make a new homelessness strategy if their current strategy was not fulfilling the purpose for which it was originally intended.

The minister mentioned how important it is to consult people. Amendment 33 would require a local authority that is reviewing its homelessness strategy to consult those who deal directly with homeless people. Amendment 33 would put that on the face of the bill. It would also ensure that all

relevant organisations have a strategic input to the strategy and that the strategy is advertised and published.

Amendment 74 would require any review of a local authority's homelessness strategy to include an analysis of what progress has been made to alleviate homelessness. It would require local authorities to justify their effectiveness.

I move amendment 69.

Robert Brown: I do not support amendments 69 and 70: an annual review is too frequent.

Amendment 33 has merit. We must be inclusive. Other organisations that work in the field must have ownership of the project and so should be consulted. Amendment 33 seems reasonable and I hope that the minister will respond to it positively.

Brian Adam: This morning, we have heard quite a bit about the need not to be too prescriptive. We have also heard from the minister that there is a need for widespread consultation and that tight time scales sometimes inhibit consultation. Amendment 70 deals with that by requiring that a review of homelessness strategies be made annually. We will not get the strategy right first time. The strategy must be reviewed regularly and updated to reflect local changes. We need to put a time scale on when the strategy is to be reviewed. We need to put an onus on local authorities to review things regularly. Amendments 69, 70, 71, 33 and 74 would allow that to happen.

A regular review is important. Our aim is not simply to pass the bill and to produce strategies. We hope that strategies will be acted on and that homelessness will, as a consequence, be alleviated. If homelessness is alleviated, that will almost certainly lead to a requirement for a review. Imposing a duty on local authorities to make an initial quick response will not inhibit their producing good strategies. Local authorities will need to review their strategies continually. I hope that if the minister cannot accept all the amendments, she will at least accept the principles that lie behind them.

I commend the amendments.

Karen Whitefield: I have a slight concern about amendment 33. Although consultation is vital, I find it interesting that the amendment puts a duty on local authorities to consult only other professionals and organisations, not the very people the strategies affect—homeless people. That is a failing in the amendment, which I cannot therefore support. Executive amendment 29, which has already been agreed to, will be more effective.

11:00

Jackie Baillie: The bill already provides for full reviews of strategies, which can be initiated either by the local authority or by Scottish ministers. We recognise that strategies often go well beyond the bill's specific requirements. It would not be helpful to restrict the review as Kenneth Gibson's amendments propose, because local authorities would simply be reviewing the legislative aspects of the homelessness strategy instead of the much wider context. That would be an opportunity missed.

Requiring local authorities to review their homelessness strategies annually is not particularly helpful. In practice, most worthwhile strategies should have a much longer shelf life. We want local authorities to review their strategy when revision is required, not simply as part of some mechanical process. We do not want a routine annual uprating in which not a great deal changes; we want the mechanism to be robust.

Although the intention behind amendment 33 is good—consultation is important—Karen Whitefield is right to say that we must recognise the importance of developing mechanisms for consulting homeless people themselves. The homelessness task force learned that lesson early on. Consultation is not simply about talking to the organisations that represent the homeless.

Executive amendment 29 covers many of the sentiments that are covered by this group of amendments. I therefore ask the committee to reject amendments 69, 70, 71, 33 and 74.

The Convener: Will Kenneth Gibson wind up and indicate whether he wishes to press or withdraw amendment 69?

Mr Gibson: I will withdraw it.

Amendment 33 says that

"a local authority shall consult— ... (b) such other persons as the local authority sees fit."

That does not preclude a local authority from speaking directly to homeless people. That answers the point that was made by Karen Whitefield and the minister.

Frankly, it is nonsense that an annual review would be restrictive. Although the minister said that homelessness strategies should have a shelf life that is longer than one year, an annual review would pick up whether issues were being dealt with effectively and would do so earlier rather than later. I therefore want to press all my amendments.

The Convener: Are you saying that you wish to press amendment 69? You said that you intended to withdraw it, but I am sure that that is not what you meant.

Mr Gibson: I would like to press amendment 69.

The Convener: The question is, that amendment 69 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 69 disagreed to.

Amendment 31 not moved.

Amendment 70 moved—[Mr Kenneth Gibson].

The Convener: The question is, that amendment 70 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 70 disagreed to.

Amendment 71 moved—[Mr Kenneth Gibson].

The Convener: The question is, that amendment 71 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 71 disagreed to.

Amendments 32 and 72 not moved.

Amendment 33 moved—[Mr Kenneth Gibson].

The Convener: The question is, that amendment 33 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Brown, Robert (Glasgow) (LD)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 3, Against 3, Abstentions 0. I therefore use my casting vote, and the amendment is disagreed to.

Amendment 33 disagreed to.

Amendment 73 moved—[Tommy Sheridan].

The Convener: The question is, that amendment 73 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 73 disagreed to.

Amendment 74 moved—[Mr Kenneth Gibson].

The Convener: The question is, that amendment 74 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Brown, Robert (Glasgow) (LD)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 3, Against 3, Abstentions 0. I therefore use my casting vote, and the amendment is disagreed to.

Amendment 74 disagreed to.

Amendment 75 not moved.

The Convener: Amendment 76 has already been debated with amendment 25. I call Mike Watson to move amendment 76.

Mike Watson: I shall not move amendment 76.

Brian Adam: In that case, I move amendment 76.

The Convener: The question is, that amendment 76 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Brown, Robert (Glasgow) (LD)

The Convener: The result of the division is: For 2, Against 3, Abstentions 1.

Amendment 76 disagreed to.

The Convener: The question is, that section 1, as amended, be agreed to. Are we agreed?

Members: Yes.

Brian Adam: I would like to have an opportunity to say something about that.

The Convener: To say something about what? Is it a matter of procedure? We now have to move on to section 2 and to the fifth group of amendments.

Brian Adam: I thought that there was an opportunity at the end of each section to have a debate on it.

The Convener: Yes, you are right. Perhaps I should have offered members that opportunity before I put the question on section 1. On you go.

Brian Adam: You, convener, and Robert Brown have made comments about time scales and, as we are aware, the matter is before the Procedures Committee. I share those concerns. I do not feel that this is the best way to go about framing legislation, as there is insufficient time for proper consideration to be given to it. I do not think that the Procedures Committee will come up with an instant solution but, if the matter is raised as each bill is dealt with, that committee should take cognisance of members' concerns. I am not sure what the formal procedure is and I would accept your guidance, convener, but the concerns that have been expressed by three members of the

committee ought to be drawn to the attention of the Procedures Committee so that they can form part of its further consideration of the matter.

It is unfortunate that the minister has adhered so strongly to her views on time scales. First she says that people do not want to be constrained and then she says that the time scale I proposed is far too long. Her position is rather inconsistent. Suggesting as we go through the bill that the matter will be taken care of in guidance, when we have no indication of either the detail or the general nature of that guidance, makes it difficult to have a proper informed debate. That may be how things were done in the past, but it does not help us to deal with the legislative process in an informed way. That is something to which consideration should be given. I am not pointing the finger particularly at Jackie Baillie. The procedure is widely adopted, but I do not think it is the best way of doing things.

Those of us who are taking part in the scrutiny of the bill can deal only with what is before us. If, when we lodge amendments that are meant either to probe the minister's position or to make changes that will be helpful, we are always to be told that things will be taken care of in the guidance, that is not, in my opinion, a good way to legislate. If we do not even know what is likely to be in the guidance, how can we say whether what the minister is doing is right or wrong?

The Convener: Can you wind up please, Brian? The definition of short is when I ask you to wind up, so please wind up.

Brian Adam: Well, it is your privilege to ask me to do so, but I am expressing some general concerns about how the legislative process is taking place. It is not meant to be a specific criticism of Jackie Baillie, but a criticism about the way in which we are dealing with things. It is important that we start to get things right in the early stages of the Parliament and I hope that those matters will be considered by the Procedures Committee.

The Convener: Let me clarify the broader point about the time scale for lodging amendments, which has nothing to do with the section that we are dealing with at the moment. Everybody takes that matter seriously and, with the committee's agreement, I shall write to the convener of the Procedures Committee saying that we have a good example of why the time scale is a problem. I hope that members agree to that.

The opportunity for debate at the end of the debate on each section is for members, rather than the minister, to highlight issues that have not come out in the general debate. I hope that members will not use the opportunity that is afforded at the end of each section to revisit the

arguments that have already been discussed in the debate on that section, or to make broader points that do not relate specifically to the section. To some extent, that is a matter for discretion, but I hope that members will bear that in mind when we come to the end of section 2.

Section 1, as amended, agreed to.

Section 2—Advice on homelessness etc

The Convener: I call Sandra White to speak to and move amendment 34, which is grouped with amendments 79, 80, 81, 35, 82, 83, 9 and 10.

Ms White: I do not want to labour the point about the time scale for lodging amendments, but I must put on record the fact that I spoke to the clerk about it this morning. Although our amendments were lodged, we did not see the marshalled list until today, and I had reason to speak to the clerk about some of the amendments. The clerk advised me that if I raised the matter during the meeting, it would be noted in the *Official Report* that amendments 34 and 35 did not appear on the marshalled list as I had originally submitted them. However, that is beside the point and it is no reflection at all on the clerks, who have worked very hard and to a very tight time scale.

I was considering not moving amendment 34, as I see that other members have lodged amendments to insert the word "independent" exactly where I wanted to insert it. I also considered not moving amendment 34, because the amendment as it appears in the marshalled list differs from the amendment that I originally lodged. However, having read through amendment 34, I feel that I should just move it as it stands.

I will explain why I wish to insert the word "independent" in section 2(1). I know that local advice services, such as citizens advice bureaux, and local authorities usually give individuals good advice about homelessness. However, in my view it is necessary to stipulate in the bill that that advice must be independent.

11:15

I agree with the proposal in amendment 79 to include in section 2(1) the words, "information and independent advice", which are covered to an extent by my amendment 35. We must stipulate that anyone who asks a local authority for advice or who wants to be placed on a homelessness list cannot simply be given a slip of paper that tells them where to go to get information. I would like local authorities to direct individuals to more independently minded services, such as CABx and local one-stop shops. Rather than restrict homeless people to receiving advice from a local authority, that would give them much more

freedom and information. I do not intend to slight local authorities in any way, but independent information should be available to homeless people.

Amendment 35 refers to

“advice on a homeless person’s entitlement to accommodation and to social security benefits”.

Originally, I had thought of including the word “independent” in amendment 35, but I was advised by the clerk that if amendment 34—which would amend section 2(1) by including the word “independent”—is agreed to, the advice referred to in amendment 35, if agreed to, would be covered. I ask the minister and other members to consider that carefully.

I have included reference to social security benefits in amendment 35 because it is important that homeless people who have plucked up the courage to ask for information or advice about housing are given advice about other matters, such as welfare and social security benefits. Otherwise, an ideal opportunity to give them advice is wasted.

I move amendment 34.

Tommy Sheridan: I do not need to say much more. I hope that the committee accepts that it is important that the advice that is given is independent. There is a difference between information and advice, as advice recommends a course of action. If someone is giving advice and so recommending a course of action, they should give it independently.

Robert Brown: Amendment 80 relates to the provision of advice. I accept—and suggest to the minister—that advice should contain an independent element. However, we should recognise that such advice will come from the local authority and from independent agencies such as CABx. Amendment 80—I withdrew an earlier version, which was phrased slightly differently—is designed to reflect the wider dimension.

The Scottish Executive has indicated that it is taking steps to try to widen the availability of advice services to a comprehensive geographical spread, which I welcome. However, it is important to include a reference to independent agencies in the bill, because the advice given by local authorities does not always meet the criterion of independence. I hope that the minister is prepared to take that on board.

Amendment 81 is slightly subtler. I believe that other members have received information from Shelter that makes the point that authorities could discharge their duties under section 2 simply by handing out a leaflet. It is important that advice is targeted and that it assists homeless people

positively, as that will go some way towards avoiding an increase in homelessness.

Amendment 82, like amendment 6, is on child-proofing. I indicate now, in the light of the minister’s earlier assurances, that I will not move amendment 82.

Amendment 9 relates to whether Scottish ministers should issue guidance or regulations. If section 2 is to be meaningful, it is important not only that guidance should be available, but that ministers should be able to make regulations that are binding on local authorities.

Amendment 10 is designed to guarantee that certain criteria are covered in guidance or regulations. Amendment 10 is not exclusive—it is inclusive. I understand that HomePoint, which is a Scottish Homes project, is piloting quality standards, and amendment 10 is based on the work of that project. The intention of amendment 10 is to cover different sorts of advice: information or signposting advice; case work; and advocacy, representation and mediation. I urge the minister to take on board amendment 10, as it proposes an important firming-up of the nature and quality of advice that is provided.

Mr Gibson: Despite the minister’s earlier comments on the use of the word “may”, I believe that the word “shall” would be more appropriate in the context of amendment 83, which would tighten up the time scale.

It is obvious that Robert Brown’s amendments 80, 81, 82, 9 and 10 are well intentioned, but I ask him to clarify them.

On amendment 80, the bill as drafted does not prevent local authorities from using other agencies or organisations to provide advice and information. It appears that amendment 81 would prevent local authorities from providing other types of advice to homeless persons. In addition, using the word “will” rather than “may” puts an onus on local authorities to prove, even before advice can be given, that the advice will help each individual rather than that it will be generally efficacious. It also suggests that the local authority would have to ensure that the individual acted on its advice. Robert Brown talked about the subtlety of amendment 81 and stated that it is important to target advice, but I would like some clarification from him on that point.

On amendment 9, Robert Brown may wish, when he winds up the debate, to explain in more detail why it would be desirable for ministers to make regulations, and whether regulations would differ significantly from guidance. If regulations are considered to be stronger, that should be the term that is used throughout the bill—that is, “regulations” should be used instead of, rather than as well as, “guidance”.

The Convener: Robert Brown will not wind up the debate on group 5. However, if he wants to come back in on those points, I will perhaps notice him.

Fiona Hyslop: I strongly support the call for independent advice. I was a member of the Social Inclusion, Housing and Voluntary Sector Committee when we first considered Cathie Craigie's Mortgage Rights (Scotland) Bill. At that time, it was clear that there was a strong need for independent advice.

I am a little concerned about amendments 34, 79 and 80, which seek to insert the word "independent" at line 20 of section 2. I hate to think that I am arguing the Executive's position for the minister, but I am concerned that the effect of those amendments would be that the local authority would have to secure independent advice. To be frank, I think that local authorities should secure advice and information for themselves.

I understood that the original draft of what is now amendment 35 proposed a new paragraph (c) that would refer to independent advice, which would enable local authorities to provide advice and information themselves and would require them to ensure the provision of independent advice. I believe that that is the point that Robert Brown, Tommy Sheridan and Sandra White are trying to argue.

I ask the clerks to consider that point, as I believe that such an approach would strengthen the bill and would secure the position that everyone wants to reach: local authorities would provide advice and information, but independent advice would be provided to people who seek such information.

Karen Whitefield: I support the good work of the CABx in Lanarkshire and throughout Scotland. However, North Lanarkshire Council, which is the local authority for my constituency, provides an equally valid form of independent advice.

It is important that section 2 imposes a duty on local authorities to ensure that advice and information about homelessness services is available throughout their areas. That does not mean that those services must be provided by a specific agency, that local authorities should be excluded from providing it, or that advice provided by local authorities is not independent. I do not accept that, just because a local authority provides information, that information is not independent. The local authority department that provides that information may well be not the housing services department, but the authority's independent advice service, operating at arm's length.

Brian Adam: I share the concerns that have been expressed about amendments 79 and 80.

Tommy Sheridan's and Robert Brown's amendments are well intentioned, but there are dangers in the approach that they have taken. However, rather than being utterly negative all the time, I would like to support Robert Brown's amendment 10, which clarifies and gives clear guidance about the form and content of the advice and information. The detail that amendment 10 inserts helps rather than hinders. I hope that the minister will be able to accept amendment 10.

Robert Brown: On the point about independent agencies, amendment 80 widens the provisions that are already in the bill. I am not against the idea of independent advice, but amendment 80 reflects the fact that there are two sources of advice on homelessness.

With regard to Kenny Gibson's point on amendment 9, our experience of the homelessness code of guidance is that—because the code was not statutory, but was issued as guidance—a number of local authorities did not take it as seriously as they should have done. It is important that provision of homelessness advice is taken seriously and I am minded to give Scottish ministers powers to make regulations if they are found to be necessary. Sometimes it is acceptable to issue guidance, but there are times when it is not acceptable to do so.

The Deputy Minister for Social Justice (Ms Margaret Curran): First, I welcome Fiona Hyslop's comments in support of the Executive. Section 2 imposes a general duty on local authorities to secure advice and information about homelessness in their area. The details of the advice and information, quality standards and so forth are to be set out in the supporting guidance. I will return to that point shortly.

I hope that I followed Sandra White's point correctly. My reply is that we do not see any good reason for elevating any particular elements to the face of the bill. I re-emphasise that the guidance will be drawn up with the assistance of the homelessness task force and that the Social Justice Committee will be consulted. Further to that, the regulator will be able to monitor observance of the guidance. I hope that those remarks answer some of Robert Brown's points.

Brian Adam expressed concerns about guidance. I want to emphasise that the Executive is not in any way attempting to undermine the details that are required in the guidance. What is at issue is good legislative practice. With all due respect, many members—including members who are present this morning—have criticised the Executive for taking so long to introduce the bill. If we were to put every dot and comma into the legislation, not only would the bill be longer, but it would militate against the flexibility that is required for good legislative practice. The Executive is not

in any way attempting to restrict opportunities for legislation, but we are adhering to what we consider to be good practice.

The Executive will give a commitment that the guidance will set out clearly the need for local authorities to secure a comprehensive package of advice. That package will include access to independent advice. As Karen Whitefield outlined very effectively, local authorities should be able to provide the advice and information that is required. Our key concern about the amendments is that they could preclude local authorities from providing advice.

Shelter's concern that local authorities could fulfil their duty to provide advice simply by producing a leaflet was raised. We do not concur with that view. The duty on local authorities is clear: it is to ensure that advice and information is available in their areas. That duty is backed up by Scottish ministers' guidance on the form and content of the advice and information. Local authorities' performance in fulfilling that duty will be monitored and regulated by the new executive agency. Local authorities will also have to ensure that the organisation of advice services is part of their homelessness strategies.

The Executive recognises that there is a desire for the content of advice to be included in the bill. As I said earlier, the more that appears in the bill, the greater the danger of inflexibility. We do not wish to be placed in a situation whereby the Executive, the homelessness task force and the local authorities—as front-line providers—are forced to proceed in an impossible direction because a section of the bill is too specific. The current guidance on homelessness runs to 102 pages. If we were to incorporate that into the bill, it would be seen by most people as inappropriate. For the guidance to be effective, it has to be fairly detailed. It would therefore not be appropriate to include it in the bill. The Executive asks members to resist pressing their amendments.

11:30

Ms White: I did not think that the word "independence"—a simple little word—would cause such a stooshie. The amendments to section 2 are well meaning. Members have pointed out the pitfalls in amendments 79, 80 and 81. However, I cannot see any pitfall in amendment 34.

I point out to Karen Whitefield that I know that local authorities give independent advice—sometimes it is very good—as do the CABx and other agencies. I simply want to see the addition of the word "independent", so that when people go for information they are told to go to the CAB or to a one-stop shop or even to the local authority. The

addition of that word would give homeless people the choice. People could still go to their local authority for advice. Adding the word would simply give them more choice and freedom if they felt that they were not getting proper advice at the CAB or anywhere else.

On behalf of homeless people, I ask the minister to support amendment 34.

The Convener: The question is, that amendment 34 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Brown, Robert (Glasgow) (LD)

The Convener: The result of the division is: For 2, Against 3, Abstentions 1.

Amendment 34 disagreed to.

Amendment 79 not moved.

Amendment 80 moved—[Robert Brown].

The Convener: The question is, that amendment 80 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Brown, Robert (Glasgow) (LD)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 3, Against 3, Abstentions 0. I use my casting vote for the status quo, so the amendment falls.

Amendment 80 disagreed to.

Amendment 81 moved—[Robert Brown].

Robert Brown: I should say, in support of amendment 81, that there has been some misunderstanding as to where the amendment starts. It aims to replace section 2(1)(b) but does not affect section 2(1)(a). The amendment applies from line 22 onwards.

The Convener: The question is, that amendment 81 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Brown, Robert (Glasgow) (LD)

AGAINST

Adam, Brian (North-East Scotland) (SNP)

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Lamont, Johann (Glasgow Pollok) (Lab)

White, Ms Sandra (Glasgow) (SNP)

Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 1, Against 5, Abstentions 0.

Amendment 81 disagreed to.

Amendment 35 moved—[Ms Sandra White].

The Convener: The question is, that amendment 35 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)

White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Lamont, Johann (Glasgow Pollok) (Lab)

Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 35 disagreed to.

Amendments 82 and 78 not moved.

Amendment 83 moved—[Mr Kenneth Gibson].

The Convener: The question is, that amendment 83 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)

White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Lamont, Johann (Glasgow Pollok) (Lab)

Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 83 disagreed to.

The Convener: Amendment 9 was debated with amendment 34. Does Robert Brown wish to move amendment 9?

Robert Brown: I will not move amendment 9.

Brian Adam: I believe that the amendment is important, so I move amendment 9.

The Convener: The question is, that amendment 9 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)

White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Lamont, Johann (Glasgow Pollok) (Lab)

Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Brown, Robert (Glasgow) (LD)

The Convener: The result of the division is: For 2, Against 3, Abstentions 1.

Amendment 9 disagreed to.

Amendment 10 moved—[Robert Brown].

The Convener: The question is, that amendment 10 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)

Brown, Robert (Glasgow) (LD)

White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Whitefield, Karen (Airdrie and Shotts) (Lab)

Lamont, Johann (Glasgow Pollok) (Lab)

The Convener: The result of the division is: For 3, Against 3, Abstentions 0. I use my casting vote for the status quo, so the amendment falls.

Amendment 10 disagreed to.

Section 2 agreed to.

Section 3—Homeless persons and persons threatened with homelessness

The Convener: We move on to section 3 and I call amendment 36, in the name of the minister, which is grouped with amendments 85 and 84. I ask the minister to move amendment 36 and to speak to all the amendments in the group.

Jackie Baillie: At present, the definition of homelessness means that anyone who has accommodation outwith Scotland, England and Wales will be assessed automatically as homeless, because their accommodation cannot be taken into account. That situation has existed for some time but, clearly, it can create ludicrous situations. For example, anyone who has a house

in Northern Ireland or the rest of the European Union would be treated automatically as homeless. We want to ensure that only genuinely homeless people get help. The amendment therefore matches the current wording that is used in England and Wales and rectifies the situation by allowing local authorities to take account of any accommodation that is held by the applicant.

I am aware of Shelter Scotland's concerns about the practical application of the legislation. I will therefore provide an assurance that we will pick up that point in guidance. However, I am interested to hear whether there is any substance behind amendments 84 and 85.

I move amendment 36.

Fiona Hyslop: With regard to amendment 84 in particular, I would like to refer to the powers that councils used to have before the Immigration and Asylum Act 1999 took effect. By including the amendment, we could restore to councils the power to house homeless people who are asylum seekers. One of the many sadnesses arising from the Immigration and Asylum Act 1999 is that it took powers away from councils on a range of issues. Ensuring that asylum seekers are allowed to be considered homeless will enable local authorities—particularly Glasgow City Council, which bears the brunt of applications and related provision—to decide for itself what to do. The bill would effectively enshrine in law that which already happens in practice. From its visit during the inquiry on asylum seekers to Glasgow, the committee will be aware that the Home Office, via the national asylum support service, devolved powers in practice to Glasgow to allow the council to locate homeless individuals who are seeking asylum and to decide where in Glasgow those people would go. It is far more practical for Glasgow City Council to identify appropriate accommodation for asylum seekers than to go through an unnecessary process that involves the burden of the bureaucracy of the contract system—which has quite clearly broken down, as the committee saw when it visited Glasgow.

Essentially, amendment 84 would allow asylum seekers to be considered to be homeless under the Housing (Scotland) Act 1987, as they used to be before the Immigration and Asylum Act 1999. The Parliament discussed the subject in 1999 in a debate on UK legislation. My colleague, Alasdair Morgan, raised the issue with the late Donald Dewar, who was then the First Minister. That debate took place during something of a transition period as, at that point, the Immigration and Asylum Act 1999 was only a bill and the powers of the Scottish Parliament had not come into effect. Had the Immigration and Asylum Bill come at some point after 1 July 1999, it would have been subject to a Sewel motion or some equivalent

measure. In response to the point that Alasdair Morgan made, Donald Dewar said:

"Mr Morgan refers to an inertia factor that would prevent us from altering a provision that had come through the Westminster machinery even though there may be a wish to use a power in a devolved area. That is a criticism of this Parliament. The powers exist, if the Parliament wants to use them, and it is for those who are arguing for change to overcome any inertia. I hope that the SNP will not take this as too much of a compliment, but the word inertia is not one that I would apply to it. I do not know whether SNP members will win the argument, but they are certainly entitled to put their point of view."—[*Official Report*, 9 June 2001; Vol 1, c 362.]

In that spirit, I want to put the SNP's point of view, which is that local authorities in Scotland should be able to treat asylum seekers as homeless, as they were able to do between 1997 and 1999. We seek to restore the powers that were lost to local councils and which, in practice, have already been devolved to Glasgow City Council by the national asylum support service over the past few months. I hope that, having seen evidence to support that view on its visit to Glasgow, the committee will have sympathy with my words. The measure would show practically that the Scottish Parliament can do things differently.

On amendment 85, I hope to be given some explanation as to why we had to replace the words

"Scotland, or England or Wales"

with "the United Kingdom". I ask the clerks to examine amendment 36, because my understanding is that all that I was seeking to do with amendment 36 was to restore provisions in the Housing (Scotland) Act 1987. If the words

"Scotland, or England, or Wales"

were sufficient for the 1987 act, and have lasted for 14 years, I do not understand why the Executive would want to use the Housing (Scotland) Bill to change that. The change is not tautological, but I do not understand why it has to be made. I do not want the words

"Scotland, or England or Wales"

to be air-brushed out and I do not believe that that is the Executive's intention.

Karen Whitefield: I welcome the minister's assurances on amendment 36. Like many members of the committee, I was approached yesterday by Shelter Scotland and I share its concerns about the slight possibility that the amendment might discriminate against some people who are genuinely homeless. I look forward to the matter being addressed in guidance.

While I will give members of the Opposition the opportunity to voice their opinions, I regret that amendment 84 has been lodged because it seeks

to add something to the bill—an important bill that might benefit many people—to do with an area on which we have no right to legislate. The amendment plays constitutional politics with an important issue and is outwith the remit of the Parliament. It is completely inappropriate and unhelpful and I do not support it.

Ms White: On amendment 36, I would like to have clarification from the clerks regarding the points that were made about the Housing (Scotland) Act 1987. I am sure that the clerk will come back to us with clarification—

The Convener: I must interrupt you, Sandra. There is no provision for us to ask the clerks to clarify anything for us. The clerks are not in a position to defend themselves in the committee. We can have a political debate about the issue and ask the minister to respond.

Ms White: Thank you, convener, but I was not attacking the clerks in any way. The clerks will agree that I have only the greatest respect for them. I asked only for clarification on issues relating to the Housing (Scotland) Act 1987.

On amendment 84, I say to Karen Whitefield that, although I am not a member of her party, I do not necessarily sit on the Social Justice Committee as a member of the Opposition. I am trying to pass a bill that will make the lives of homeless people better. Her remarks were disingenuous and were not a fitting way to address committee members.

I support amendment 84 because—I raised this point in committee before we visited the Sighthill flats—I was concerned that Glasgow City Council, which Fiona Hyslop mentioned, was being given asylum seekers by NASS and was being told to accommodate them here, there and everywhere. However, the council had no powers, which was not good for the council or for the asylum seekers.

I spoke to various people to see where I could amend the Housing (Scotland) Bill. I had thought that I would amend later sections of the bill, but Fiona Hyslop has lodged amendment 84, and I am happy to support it. I presume that it amends the right part of the bill, that is part 1, which is entitled, “Homelessness and allocation of housing”.

11:45

I support the amendment because it will return to councils powers that were taken away by the Housing (Scotland) Act 1987. Not only Glasgow City Council will be affected; councils all over Scotland will be affected. There is a wish to be humanitarian and to help homeless people. It should be remembered that asylum seekers are, in effect, homeless people. They come to our country and seek guidance and something to

make their lives better.

I hold up Glasgow City Council as an example, because it is the council of which I have most experience. It is doing its best to accommodate asylum seekers. I wish that we could get away from the phrase “asylum seekers.” They are displaced people who are in dire need of help, and they are getting that from Glasgow City Council. The council spoke to NASS and said, “You are going about this the wrong way. We know how to deal with it. We are the experts, and thankfully, we have a little bit of power.”

That is why we should be talking about these issues. I accept that responsibility for asylum seekers is not devolved, but the housing and social needs of asylum seekers are devolved, and we have the power to deal with them in the bill. This is not an issue of Westminster’s reserved powers, NASS or asylum seekers. The fact is that we have a responsibility to house and take care of these people. If we can make their lives a little bit better through provisions in the bill, I am all for that. I support amendment 84.

Brian Adam: Karen Whitefield made some unfortunate remarks that implied that amendment 84 is an attempt to make a constitutional point. This is not about the constitution; it is about people and their access to accommodation. The committee has already seen the significant difficulties that exist in Scotland as a consequence of changes that were made to councils’ ability to offer accommodation. Amendment 84 is a genuine attempt to address some of the considerable concerns that exist. The complexities that are involved in dealing with the housing needs of asylum seekers, or whatever name we use, are tremendous. Amendment 84 would remove some of the complexities, and restore councils’ ability to address need.

I repeat that amendment 84 is not an attempt to deal with a fine constitutional point or to broaden the powers of the Parliament. It is not a way of making a point about the fact that the Parliament cannot deal with this, that or the other thing. The Parliament can deal with housing and what amendment 84 seeks to do can and should be done. It is a genuine attempt to deal with real problems and needs. Why should we treat asylum seekers differently from anybody else?

One of the main points that has been made is that the bill is an attempt to provide a comprehensive solution to a range of housing needs. I accept that that is the motivation behind the bill, but I do not see why we should treat asylum seekers differently. Amendment 84 is an attempt to address that issue. If the minister is willing to suggest another avenue by which it could be handled, I am willing to listen. Amendment 84 is not meant to be about a constitutional point.

Robert Brown: I am not sure that I fully understand the implications of most of this, but insofar as I do, I am not convinced that other members fully understand the implications. I am not convinced of the merit of any of the amendments that have been lodged by the minister or by Fiona Hyslop. I accept that we are not dealing with a constitutional point; we are dealing with a definition in a housing bill. This is not a constitutional issue, nor does it represent an extension of the powers of the Parliament; it is just about using the Immigration and Asylum Act 1999 to define certain people, which is legitimate. Although it might be legitimate, I do not agree with it, because it does not advance the current situation.

On the more substantive point about the use of the terms

“Scotland, or England or Wales”

and “the United Kingdom”, I am intrigued by Fiona Hyslop’s difficulty with the phrase “the United Kingdom” because the omission of Northern Ireland from the Housing (Scotland) Act 1987 was a mistake. My concern is with the extension “or elsewhere”. It should be remembered that we are talking about a definition in section 24 of the Housing (Scotland) Act 1987, which states:

“A person is homeless if he has no accommodation in Scotland, or England or Wales.”

Amendment 36 would make that definition apply to a person from anywhere. I have no difficulty saying “the United Kingdom” rather than

“Scotland, or England or Wales”

but I have some qualms with “or elsewhere”. First, that seems to be almost unmanageable in practice. How on earth will you check whether somebody has a home in Kenya, or somewhere else? There is no practical way to do that. I would be interested to hear from the minister what she seeks to achieve by inserting that phrase in the bill, because I do not follow the reasoning. Secondly, Shelter’s observation has some merit. A year or two ago there was a legal case—*Begum v Tower Hamlets*—that concerned somebody who had a home in Bangladesh. I am unsure of the ins and outs of the case, but the person needed housing because they had nowhere else to stay in this country.

I do not want us to pursue, by a by-blow, a populist knee-jerk against asylum seekers, an element of which is being proposed. It would be of assistance if the ministers justified amendment 36. I ask them to leave the matter until stage 3, and until we have considered the issue in some detail. I do not feel able to vote on amendment 36 because I do not have full knowledge of the implications. I ask the ministers to take that on board.

Mr Gibson: I wish to speak in support of amendment 84. Under schedule 5 to the Scotland Act 1998, the status of asylum seekers is reserved, but services to them are not. Amendment 84 aims to ease access to those services, particularly with regard to their right to decent housing. Shelter supports the amendment on that basis.

Jackie Baillie: I was confused at some points when Fiona Hyslop was speaking as to whether this was a debate about the SNP’s inertia or lack of it, or asylum seekers. I will deal with amendment 85 first, because it shows that Fiona Hyslop agrees with the principle behind our amendment, but has limited her input to what is essentially a politically motivated gesture. Let me quote from the Housing (Scotland) Act 1987, because it does not refer to “or elsewhere”. Section 24 says:

“A person is homeless if he has no accommodation in Scotland, or England or Wales.”

Our amendment seeks simply to include Northern Ireland. We have no difficulty using those terms.

On Robert Brown’s point, the “or elsewhere” applies to people who have a right to live here. If we did not include that phrase, somebody like—let us take an example out of thin air—Sean Connery could be considered homeless. That is why we added the phrase. We are keen to pin down in guidance the valid point that Shelter makes, so that the legislation is not abused.

Amendment 84 has a similar theme to amendment 85. Immigration policy is outwith the competence of the Parliament. Let me develop that point a wee bit further, based on the discussion that has taken place. You cannot give a statutory right to housing if the individual does not have a statutory right to remain in the country. It is appropriate that the legislation as it stands leaves aside the determination of whether an asylum seeker becomes a refugee who has accepted status. At the point at which a person acquires refugee status, they are entirely covered by the homelessness legislation, and a set of duties applies to local authorities in that regard.

Brian Adam asked whether there was an alternative route through which he could raise his concerns. I suggest that the alternative route of having more members of Parliament at Westminster could not be pursued by the SNP, given that the current polling evidence suggests that the people of Scotland do not favour that option.

Mr Gibson: Shame. That is not relevant.

Jackie Baillie: I urge the committee to accept amendment 36, but strongly resist amendments 84 and 85.

The Convener: You have succeeded in winding them up, if they were not wound up already.

Jackie Baillie: It was enjoyable.

Amendment 36 agreed to.

Amendment 85 moved—[Fiona Hyslop].

The Convener: The question is, that amendment 85 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 85 disagreed to.

Amendment 84 moved—[Fiona Hyslop].

The Convener: The question is, that amendment 84 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 84 disagreed to.

The Convener: Subject to the agreement of the committee, I suggest that we take a break for 10 minutes to stretch our legs, gather our thoughts and move on. Coffee is available at the back of the room.

Members indicated agreement.

11:56

Meeting adjourned.

12:10

On resuming—

The Convener: We can now move to the seventh group of amendments, headed by

amendment 37, which is grouped with amendments 38 and 39. Brian Adam will move amendment 37 and speak to the other amendments in the group.

Brian Adam: Amendment 37 is straightforward. We should insert “or” because the list in the new section 24(5) to be inserted in the Housing (Scotland) Act 1987 should be a list of options. That may be a technical point; no doubt we will hear from the minister whether it is.

I have no problem with the tidying up exercise that the minister proposes in amendment 39.

Amendment 38 seeks to include “affordable” before “assured tenancy”. I am concerned about the possibility of fairly high rental costs if people are moved into the private sector, and about the possibility of a gap between what social security will pay and what the costs might be. We might put ourselves in difficulty if we say, “Yes, you can have any kind of housing you like providing you can afford it.” People may be referred to the private sector. The costs should be affordable, as is the case in current local authority housing or housing association housing. That is why I want to include “affordable”.

I move amendment 37.

Jackie Baillie: Section 3 makes a number of changes to the Housing (Scotland) Act 1987. It is the focus of the task force’s recommendations on increasing the rights of homeless people. An important increase in those rights is the fact that the bill will make clear that the duty towards unintentionally homeless people in priority need is to secure permanent accommodation. That repairs a judgment in the House of Lords in the *Awua* case in 1995, which cast some doubt on the situation.

Some concern has been expressed about how the duty to unintentionally homeless people relates to our other measures on anti-social behaviour. A household may be evicted for anti-social behaviour and then go on to stay with relatives or friends for a short time. When the friends and relatives can no longer accommodate those people, they may present themselves to the local authority as homeless and they may be assessed as being in priority need and unintentionally homeless. The local authority may then decide that, because of their previous anti-social behaviour, a probationary tenancy is the best option. However, the bill as currently drafted does not allow that to happen. Unless the bill is amended, the household will be entitled to a full Scottish secure tenancy or equivalent. We think that that undermines our measures on anti-social behaviour. Our amendment seeks to rectify that by allowing a probationary tenancy to satisfy the homelessness duty in such circumstances. I know

that members of the committee have stressed the importance of tackling anti-social behaviour effectively. I hope that they will therefore support amendment 39.

Amendment 37 may seem innocuous enough because it simply inserts an "or" in the list of accommodation that is included in the definition of permanent accommodation, but it is unnecessary and the list should not be read as a list of options, as they are all included.

The aim of amendment 38 would appear to be to ensure that local authorities can secure only private sector accommodation that is affordable. Local authorities, of course, currently need to ensure that the accommodation that is secured for a person is within that person's means. We have sympathy with the underlying intent of amendment 38, but the guidance already makes it clear that local authorities should adopt long-term solutions and should minimise the risk of homelessness recurring. Plainly, that embraces the concept of affordability. We therefore feel that amendment 38 is unnecessary.

I have to add that amendment 38 is technically defective because it attaches the reference to affordability to the tenancy rather than to the accommodation. However, in any event, because affordability is such a vague concept to insert in a bill, we would prefer to deal with the point in detailed guidance.

I urge the committee to accept amendment 39, to ensure that the loophole that is available to anti-social tenants is closed. In light of that, I also urge the committee to resist amendments 37 and 38.

12:15

The Convener: As no one else wishes to comment, I will ask Brian Adam to wind up and to indicate whether he intends to press or withdraw amendment 37.

Brian Adam: Perhaps if I spell out my concern a little more clearly, the minister will be able to respond at stage 3.

My concern is that local authorities may make arrangements to have people accommodated in the private sector and that there may be a gap between what they can afford to pay and what social security will pay. The minister says that she will take care of that in guidance. That is welcome, but there is a weakness in the bill. No doubt we will pursue this matter; perhaps we can do so in correspondence.

I am really concerned that local authorities may offer homeless families private accommodation that they cannot afford and then say that their duty to those families is fulfilled. As currently worded, the bill allows that to happen and I am not sure

what the minister will offer in guidance that will prevent it happening. Amendment 38 may not make things as clear as it might. We can pursue that.

I am prepared to accept the minister's explanation of the technical point relating to amendment 37. I would like to withdraw amendment 37.

Amendment 37, by agreement, withdrawn.

Amendment 38 moved—[Brian Adam].

The Convener: The question is, that amendment 38 be agreed. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 38 disagreed to.

Amendment 39 moved—[Jackie Baillie]—and agreed to.

The Convener: We now move to the eighth group of amendments. Amendment 11 is grouped with amendments 87, 107, 108, 109 and 88. I invite Robert Brown to speak to all the amendments in the group and to move amendment 11.

Robert Brown: I would like to refer back to the committee's stage 1 report. The issue raised in amendment 11 is important and concerns care leavers, young people and people coming out of prison. Ministers are well aware of the particular difficulties experienced by such people and the so-called revolving door. Several categories of priority need are defined in section 25 of the Housing (Scotland) Act 1987, to which the bill relates. The Secretary of State for Scotland and the Scottish ministers already have the power to add further categories by way of statutory instrument.

Ministers have indicated that, in relation to the further work of the homelessness task force, they intend to consider doing away with intentionality and addressing priority need. That will take a while. In the meantime, some categories of people have been clearly identified by the committee's report and in representations from Scottish Women's Aid, Shelter and others as being categories that need to be dealt with. I have tried to deal with them here.

I remind the committee of paragraph 61 of the stage 1 report, which says:

"These categories should include single young women who have been abused—

we have not dealt with that yet—

people with an institutionalised or care background, and all 16/17 year olds."

There is also reference to women who are fleeing domestic and sexual abuse. I hope that ministers will take those points on board. They can respond by way of statutory instrument if they like, but in a straightforward way the amendment brings a number of key categories into the definition of priority need.

There are resource implications, but they relate largely to people who, in various ways, are already being dealt with—effectively or less effectively—by local authorities. It will not make a great deal of difference to the principle of the matter, but in practice it is important that it is recognised that those people should be brought on board at this stage. I hope that ministers will view that favourably.

I move amendment 11.

Tricia Marwick: All the amendments in this group seek to do the same thing: to extend the priority need categories.

One of the frustrating things about working with Shelter Scotland, as I did before I became an MSP, was the number of people who presented themselves to Shelter's housing aid centres who were clearly unintentionally homeless but were not defined as priority need by legislation. The code of guidance to local authorities recognises that some categories—for example 16-year-olds and 17-year-olds—may be vulnerable, but in the past Governments have not given the code statutory status. It is therefore left to local authorities to decide whether to accept people as being in priority need.

The categories that are the subjects of my amendments are people who have previously been highlighted. I will go through them amendment by amendment, beginning with amendment 87. The 16-year-olds and 17-year-olds are vulnerable, according to the Children (Scotland) Act 1995. A child is defined as anyone up to the age of 18. It was thought that, when the act came in, local authorities would house people under the age of 18 because they were considered vulnerable. That has not happened. Local authorities continue to exclude from priority status 16-year-olds and 17-year-olds.

As Robert Brown indicated, in its stage 1 report the Social Justice Committee was concerned to extend priority status to 16-year-olds and 17-year-olds. Amendment 87 does that. The problem is

that young people between the ages of 16 and 17 still fall between the Children (Scotland) Act 1995 and the homelessness legislation. This is an opportunity to ensure that young people under the age of 18 are recognised as vulnerable and in priority need. I urge that on the members of the committee.

Obviously, the Children Act 1989 in England and Wales has existed for a lot longer than the Children (Scotland) Act 1995. It is believed in England and Wales that priority should be given to 16-year-olds and 17-year-olds. While I am not in favour of slavishly following everything that happens in England and Wales, in this case it is extremely important that 16-year-olds and 17-year-olds are given the maximum support at the time they most need it.

Amendment 107 seeks to give priority need status to people who have been recently discharged from an institution, including hospitals, prisons and the armed forces. Some people have said to me that if the amendment is passed, it might suggest that people discharged from hospital will be housed in the surrounding area. That is not true. Homeless people need to go through the priority need and unintentionally homeless hoops, for example, and they must also prove a local connection. According to the code of guidance, local connection would not be fulfilled simply by being incarcerated at Her Majesty's pleasure or in a hospital in the area.

My colleague Sandra White spoke very eloquently in the stage 1 debate about the problem of people who have been in the armed forces and find themselves homeless when they are discharged. It is a problem that has been mentioned on many occasions. The least we can do is ensure that the families of people who have been in the armed forces are included as a priority need category so that they are housed under homelessness legislation.

Amendment 108 would add a new subsection for

"a person who is experiencing, or is in fear of, violence".

That can be interpreted in a number of ways. The Parliament has a commitment to help women who are suffering from domestic violence, which is one of the reasons why the amendment should be included in the bill.

People who are experiencing domestic violence may feel unable to stay in the house they are in. The amendment would allow local authorities to treat them as a priority need. There is also the threat of external violence, especially drug dealing and anti-social neighbours. One of the big problems when people become homeless and are not accepted as being in priority need is the claim that they have made themselves intentionally

homeless because they have abandoned the house that they were in. In many cases, people abandon the house because of external violence. This is an opportunity for the committee to ensure that people in that category are considered as being in priority need.

Amendment 109 concerns people who are threatened with violence on account of race, colour, illness, sexuality or ethnic or national origin. We have a great deal of evidence that people are being harassed because of their racial origin. They come under the external violence category. I urge ministers to consider extending priority need to include all those categories.

One of the most difficult things we all have to deal with is the competing claims of people who are on waiting lists and people who come under homelessness legislation. Time and time again we hear that so-and-so got a house because they were housed under the homelessness legislation although someone else had been on the waiting list for a long time and could not be housed. It should not be a competition between people who are on the waiting list and people who are housed under the homelessness legislation; the committee and the Parliament should not be in the business of setting one group of people in need of housing against another.

12:30

The issue is not one of waiting lists versus legislation, but one of resources. We must provide permanent accommodation for those who need it. I hope that we will not extend the categories of priority need solely on the basis of whether the resources are available to local authorities to provide housing. We must aspire to ensure that nobody—especially the most vulnerable in society—is left out on the streets because local authorities are not obliged to have a duty to them.

The Convener: I call Fiona Hyslop to speak to amendment 88 and the other amendments in the group.

Fiona Hyslop: In speaking to amendment 88, I make two general points. First, it is noticeable that much of our time is spent amending and debating the 1987 act rather than the bill, which reflects our general approach to legislation. I think that we should consider that fact.

Secondly, we should remember that the proposals in the bill are designed to be interim measures. It was striking, in the evidence that was given to the Social Justice Committee, that a number of bodies said that they expected the homelessness task force to ensure that no distinction is made between those with priority need and other homeless people, as Tricia

Marwick said. We should remember that that is what we are aiming for. In good faith, MSPs—especially SNP members—would agree that the Executive's proposals are such that they would expect further legislation to be introduced in a very short time. The minister may be able to provide some information on that.

It is in that context that Robert Brown, Tricia Marwick and I have lodged amendments that would take references out of the code of guidance in the 1987 act and put them in the bill, to extend the areas of priority need. I emphasise that such provisions must be seen only as an interim measure and that we expect—as do the many people who gave evidence to the committee—further legislation to be introduced. It is sad that, after waiting so long for a piece of legislation, we will have to wait even longer for a second piece of legislation, but if the work of the homelessness task force is to proceed in a spirit of consensus and with consultation, that is what we expect.

I shall not address each individual area of need, as Tricia Marwick has explained those. We must ensure that we provide for those in need. It may be possible to consolidate much of what is required, and what Robert Brown and Tricia Marwick are trying to achieve is similar to what I want to achieve. I leave it to the committee to decide which of the amendments is the most appropriate.

The Convener: The committee's stage 1 report recognised the fact that there are underlying complexities of need that must be addressed, and that it is not always the most obvious expression of need that must be identified. There are groups of vulnerable people, such as those who are fleeing violence, about whom we have grave concern. I understand that the homelessness task force is going to address the issue of intentionality and whether there should be priority need at all. However, at the very least we need a strong reassurance that the matter is important to the Executive and that it understands the problem that was highlighted in our stage 1 report—that such groups are often not the first to be recognised as having a priority need.

Jackie Baillie: All those amendments seek to add new categories to priority need. It is important to place on record the fact that Scottish ministers already have the power to make any such changes through secondary legislation, and it is worth noting that all the areas that have been identified are covered either by the current code of guidance or by a combination of the guidance and the provisions of the Children (Scotland) Act 1995. However, I acknowledge Tricia Marwick's point that that needs to be re-emphasised. I shall expand on what those categories are, before informing members of our thinking on the matter.

The Housing (Scotland) Act 1987 and the Children (Scotland) Act 1995 include provisions that will help people who have left care and vulnerable 16 and 17-year-olds. They also cover people who are vulnerable for another special reason, who are recognised as having priority need, and they designate people who are subject to harassment, domestic abuse and domestic violence as having priority need.

Section 25 of the Children (Scotland) Act 1995 specifies the way in which it requires local authorities to provide accommodation for any child in its area when a certain set of circumstances exists—for example, when no one has parental responsibility for the child; when the child is lost or abandoned; or when the person who has been caring for the child is prevented from providing him or her with suitable accommodation and care.

The main point for us is the continuing work of the task force. It is examining in depth, as a priority, the issues of priority need and intentionality. I am aware, as is the task force, of the real needs of young people, care leavers, people leaving institutions and people who are subject to violence or racial harassment. Johann Lamont is right to say that there is a complex set of needs to which we must give in-depth consideration. I am happy to provide the assurance that that remains a priority for the Executive, which has reflected on the comments of the committee's stage 1 report, and for the task force.

The task force will produce recommendations for the areas in which it feels that they are required, and it aims to report by the end of the year. Because that level of in-depth consideration is going on—conducted by what is widely recognised as an expert group, in consultation with a much wider group of people—our strong preference is not to make ad hoc amendments to the current categories, but to wait for the considered opinion of the task force. Therefore, I urge the committee to reject these amendments. Although I am sympathetic to their underlying intent, a process is in train that will deliver the outcome for which we are all striving.

Robert Brown: There is no difference of principle between the Executive and the committee in this matter. We are all going in the same direction. However, the concern of members, which has been expressed in a variety of ways, is the gap between the passing of the bill and the point at which the recommendations of the homelessness task force will have been considered by ministers and the Parliament and implemented, through subordinate legislation or in some other way.

The categories that are suggested in amendment 11 and the other amendments in the

group are not new and ought to be included at the moment, through good practice. However, specifying them in the bill would add clarity to the legislative framework and it would save time for the Scottish ministers in producing subordinate legislation later. I have great concern about the overburdening of ministers with work pressures.

Against that background, I would like to press my amendment. It is important to send out signals on this matter, as it links to other issues that are addressed later in the bill, regarding support packages and other measures in the same area. It is important that we move a little on this subject, pending the more thorough recommendations of the task force.

The Convener: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Brown, Robert (Glasgow) (LD)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 3, Against 3, Abstentions 0. The vote is tied. I use my casting vote in favour of the status quo and vote against the amendment.

Amendment 11 disagreed to.

The Convener: I call Tricia Marwick to move or not move amendment 87, which was debated with amendment 11.

Tricia Marwick: Before I move amendment 87, am I entitled to say a few words?

The Convener: Yes, but you must be very brief. It may help if I say that you should say why you are moving the amendment, rather than reopen the debate.

Tricia Marwick: I intend to move all my amendments. I point out that the code of guidance that is in force has no statutory backing. All the categories that Robert Brown, Fiona Hyslop and I mentioned have caused the committee concern because local authorities do not give them the priority that they need. I say to the minister that the bill provides the opportunity for putting legislation in place while waiting for the task force's recommendations. I urge the committee to take that opportunity.

I move amendment 87.

The Convener: The question is, that amendment 87 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Brown, Robert (Glasgow) (LD)

The Convener: The result of the division is: For 2, Against 3, Abstentions 1.

Amendment 87 disagreed to.

Amendment 107 moved—[Tricia Marwick].

The Convener: The question is, that amendment 107 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Brown, Robert (Glasgow) (LD)

The Convener: The result of the division is: For 2, Against 3, Abstentions 1.

Amendment 107 disagreed to.

Amendment 108 moved—[Tricia Marwick].

The Convener: The question is, that amendment 108 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Brown, Robert (Glasgow) (LD)

The Convener: The result of the division is: For 2, Against 3, Abstentions 1.

Amendment 108 disagreed to.

Amendment 109 moved—[Tricia Marwick].

The Convener: The question is, that amendment 109 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Brown, Robert (Glasgow) (LD)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 3, Against 3, Abstentions 0. The vote is tied. I use my casting vote in favour of the status quo, so the amendment falls.

Amendment 109 disagreed to.

Amendment 88 moved—[Fiona Hyslop].

The Convener: The question is, that amendment 88 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Brown, Robert (Glasgow) (LD)

The Convener: The result of the division is: For 2, Against 3, Abstentions 1.

Amendment 88 disagreed to.

The Convener: I call Robert Brown to move amendment 12, which is grouped with amendment 12A. I will explain this group, as I do not want members to say, "Ah, but—". Robert Brown will move amendment 12 and speak to amendments 12 and 12A. Fiona Hyslop will then move amendment 12A, because amendment 12A would amend amendment 12. Let us hope that no casting votes will be required. After that, other members will be able to speak, the minister will respond, and Fiona Hyslop will wind up.

Robert Brown: Amendment 12 continues my theme of helping and co-operating with the ministers. Section 26 of the Housing (Scotland) Act 1987 concerns intentionality. As we have heard, the homelessness task force will deal with that. My concern is that we are not likely to have time for further connected legislation. What I am trying to do is give ministers power to deal with

that and recognise the pressure on legislative time to allow ministers to take action within the ambit of section 26.

I readily accept that much wider issues will emerge from that power. Some will be administrative and some will be financial. However, it would be useful—contrary to my usual theme of including more in primary legislation—if ministers had additional powers that allowed them to make changes speedily following the publication of the homelessness task force's report, which is the motivation behind the amendment. I am not sure why Fiona Hyslop wants to remove the power to amend. Ministers may want to make a variety of changes, for which amendment rather than repeal might be the appropriate method. Amendment 12A would narrow the provision too much, which is why I am not keen on the amendment.

I move amendment 12.

Fiona Hyslop: I agree with Robert Brown that amendments 12 and 12A relate to the discussion that we just had on priority need and intentionality. The issue is almost procedural. It concerns the avenues that are open to the Parliament to deal with intentionality and priority need. Amendments 12 and 12A deal with intentionality. Amendment 12A would leave out the word "amend" because I think that we should expect the Parliament to be able to debate and decide on any repeals or new legislation.

12:45

As Robert Brown made clear, amendment 12 would provide more flexibility by allowing ministers to make statutory instruments. I lodged amendment 12A because I do not think that such flexibility is appropriate. If ministers wish to amend the provision on intentionality, I tend to think that they will want to keep intentionality. Amendment 12A would limit ministers' room to manoeuvre, as it would require the Executive to argue the case for a change in Parliament. I agree with Robert Brown's point that ministers should be allowed to use statutory instruments. However, I would be concerned if changes could be made without parliamentary scrutiny.

That returns to the point about the legislative timetable. Robert Brown said that he doubted whether sufficient legislative time existed to deal with the issue. I cannot speak on behalf of the committee, but I think that the Parliament would want an attempt to be made to ensure that it can scrutinise any proposed changes to homelessness legislation. At stage 1, many called for more to be included in the bill. If we allowed all the developments that arise from the homelessness task force to be made by statutory instrument, it might be a cause for concern.

That is the rationale behind amendment 12A. I am willing to hear other arguments, but I think that we should ensure that the Executive is accountable to the Parliament for provisions on intentionality in homelessness legislation.

I move amendment 12A.

Jackie Baillie: We acknowledge Robert Brown's attempts to be helpful. We thank him for being concerned about our ministerial work load. Such concern is not often seen.

Members are right to say that amendments 12 and 12A extend the debate that we just had. The homelessness task force is considering intentionality in more detail as part of its work. I suggest that it would be sensible to await its conclusions and take a more strategic approach, if necessary, rather than prejudge the task force's considerations. I assure members that I will not shrink from introducing new legislation if it is required following the task force's recommendations. The present position is that primary legislation would be required to effect any changes, so the Parliament would debate the matter.

Broadly speaking, the time between the bill being passed, if Parliament approves it, and the homelessness task force making recommendations is six months, or perhaps less. We can achieve much through secondary legislation. As Fiona Hyslop will be aware, committees can debate that. I am sure that the committee will take the opportunity to do so. I feel that amendments 12 and 12A are premature. I ask Robert Brown to withdraw amendment 12 and, by implication, I ask Fiona Hyslop to withdraw amendment 12A.

The Convener: I will let you know whether that can technically be done.

Fiona Hyslop: The minister acknowledges that we must agree that either the committee considers any changes to intentionality by statutory instrument or the Parliament considers anything that is a halfway house and is not a repeal or brand-new legislation. That is the rationale behind amendment 12A. I will take guidance from the convener, but if Robert Brown pursues amendment 12, I will pursue my amendment. I cannot pursue my amendment if Robert Brown's amendment falls. Is my understanding correct?

The Convener: You can press amendment 12A even if Robert Brown wishes to withdraw amendment 12, as any member can disagree to its withdrawal. I hope that that is helpful—I intended to be helpful.

The question is, that amendment 12A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 12A disagreed to.

Robert Brown: I intend to press amendment 12. The amendment may not be needed, but I see no harm in its being agreed to. If the ministers choose a different method of achieving their aims, that is another matter. I am concerned about the legislative burden on the Parliament. The chances of another bill on the issue during the session are not great.

The Convener: The question is, that amendment 12 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Brown, Robert (Glasgow) (LD)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)
White, Ms Sandra (Glasgow) (SNP)

The Convener: The vote is tied—*[Interruption]*—I beg members' pardon. I have reached 12.51 pm without making a mistake. The result of the division is: For 2, Against 4, Abstentions 0.

Amendment 12 disagreed to.

The Convener: I will end that agenda item now, as the committee has a small amount of private business. At our next meeting, we will start at group 10, with amendment 89.

12:51

Meeting continued in private until 13:04.

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