

SOCIAL JUSTICE COMMITTEE

Wednesday 20 November 2002
(*Morning*)

Session 1

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SOCIAL JUSTICE COMMITTEE

21st Meeting 2002, Session 1

CONVENER

*Johann Lamont (Glasgow Pollok) (Lab)

DEPUTY CONVENER

*Mr Kenneth Gibson (Glasgow) (SNP)

COMMITTEE MEMBERS

*Robert Brown (Glasgow) (LD)

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Linda Fabiani (Central Scotland) (SNP)

*Mrs Lyndsay McIntosh (Central Scotland) (Con)

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE SUBSTITUTES

Sarah Boyack (Edinburgh Central) (Lab)

Ms Sandra White (Glasgow) (SNP)

*attended

WITNESSES

Hugh Henry (Deputy Minister for Social Justice)

Lindsay Manson (Scottish Executive Development Department)

CLERK TO THE COMMITTEE

Jim Johnston

SENIOR ASSISTANT CLERK

Mary Dinsdale

ASSISTANT CLERK

Craig Harper

LOCATION

Committee Room 2

Scottish Parliament

Social Justice Committee

Wednesday 20 November 2002

(Morning)

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

Homelessness etc (Scotland) Bill: Stage 1

The Convener (Johann Lamont): Item 1 on the agenda is our stage 1 consideration of the Homelessness etc (Scotland) Bill. I welcome Hugh Henry, the Deputy Minister for Social Justice, and the Executive officials. I have received apologies from Linda Fabiani.

The Deputy Minister for Social Justice (Hugh Henry): As committee members know, the Homelessness etc (Scotland) Bill is directly informed by the final report of the homelessness task force, which, as other witnesses have mentioned, was open and consultative in its approach. The task force drew on the experience and expertise of a wide range of individuals and organisations with a long history of preventing and tackling homelessness. The policy direction that was laid out in the final report and is taken forward by the bill reflects the views and commitment of those closest to the issue.

As several witnesses also mentioned, it is important to remember that the bill will not act in isolation. The other 54 recommendations of the task force will take effect over the next 10 years. The implementation of those wider recommendations is being overseen by the homelessness monitoring group and is vital to creating a culture change in the provision of homelessness services.

We want to prevent first-time homelessness and repeat homelessness and to ensure that there are effective and sustainable solutions to the problem. The proposed legislative changes cover four main areas: priority needs, intentionality, local connection and repossession. The bill outlines a framework for the abolition of priority need and adopts a target of 2012, which was agreed by the Executive in endorsing the task force's approach. However, the bill recognises that there is a need to phase that change so that local authorities can manage the process effectively.

The abolition of priority need will lead to a situation where all homeless people are entitled to permanent accommodation, which will ensure that

those in greatest housing need are provided with sustainable housing solutions. However, the entitlement will be suspended in cases where the household is assessed as intentionally homeless. For those applicants, the bill states that local authorities must provide a short Scottish secure tenancy with support as a route back into permanent accommodation. However, where that fails, there is an on-going duty to provide accommodation and support, as has been discussed at some length in previous meetings.

I emphasise that we cannot allow the number of rough sleepers to rise again because the relatively few households with more complex problems have been excluded from housing. It is easier and more cost effective to work with households that have difficulties while they are in accommodation, whether they are in a hostel or supported accommodation. If such households are excluded from local authority accommodation, they will not go away. It is likely that they will seek other solutions and possibly leave the local authority area, albeit that the evidence is that, in most cases, they will stay in the area. It is more likely that they will embark on a journey in and out of precarious temporary accommodation and rooflessness and demand more support from different services, which, as a result of their circumstances, will be provided in an unco-ordinated and costly way. The bottom line is that no one should end up on the streets because they have been denied accommodation by a local authority.

We believe that homeless people are more likely to resettle in areas in which they choose to live, which is why we propose to suspend local connection criteria. I recognise that some authorities have concerns about the impact of that, but there is no evidence that homeless people move around the country for other than sound reasons—to escape domestic abuse or to seek employment, for example. The bill therefore gives ministers flexible powers to disapply the local connection provisions.

I have assured the Convention of Scottish Local Authorities that the impact of the proposals will be carefully monitored. Moreover, the provisions have been drafted to ensure that we can respond quickly to reinstate local connection should that be shown to be necessary. We are required to publish a statement that sets out the criteria by reference to which the power will be exercised in order to ensure that the process is transparent. The bill requires that COSLA be consulted on the statement.

Those first three areas of the bill focus on homelessness applications and attempt to create a legislative environment that responds better to the needs of homeless people. The final main area

with which the bill deals is repossession. The bill sets out that courts should take into account whether non-payment of rent is due to delay in or failure of payment of housing benefit and that landlords should notify the relevant local authority of repossession proceedings.

One of the main concerns that has been raised in respect of the bill is resources. I want to clarify the Executive's response. On its introduction, the bill will not require significant financial resources to implement the initial expansion of priority need, the repossession provisions or the disapplication of local connection. On intentionality, we are examining the impact of the bill on housing support services and the degree to which those services may require to grow or adapt as a consequence of the new duties. Of course, housing support services that are available to homeless people have grown during the past year under transitional housing benefit arrangements and more services are expected to be in place before the end of the financial year. Further services are likely to be funded by the Executive under the framework for pipeline projects, which is currently being discussed with the Department for Work and Pensions and the Treasury.

In the longer term, there will be costs associated with the widening of priority need. It is important to note that the bill puts in place the framework for managing the process. There is no automatic trigger at 2012. Ministers must publish a statement that is prepared in consultation with COSLA, takes account of homelessness and housing strategies and sets out the measures to be taken. Abolition requires a separate statutory instrument and can take place only when

"all local authorities can reasonably be expected to perform".

We have identified resources to 2005-06 in the spending review to increase the supply and quality of housing over the period. In 2005, we will assess, in consultation with COSLA and others, the extent to which authorities are able to respond to an expansion at that time or in the period between 2005 and 2012. We will not sanction that expansion until we know that a response is possible.

The Convener: I will kick off questions. You have identified what you consider to be the principal benefits of the bill, although you seem to suggest that, no matter how aspirational the bill is, if the resources are not there at some stage in the future, nothing will happen. The bill is almost like enabling legislation rather than legislation that is dependent on resources.

The committee has received evidence from a number of witnesses highlighting the fact that refugees are excluded from the provisions of the

bill. The committee understands that that is because the matter is reserved. What is the legal position by which refugees are excluded from the bill's provisions? Will you outline the steps that have been taken with Westminster to pursue the matter?

Hugh Henry: The code of guidance covers refugees, who will continue to be assessed under the guidelines. In specific legislative terms, you are right that the matter is a Westminster issue. There have been on-going discussions between the Minister for Social Justice and her United Kingdom Government colleagues. We are aware of the sensitivities, but we are also aware of the social consequences of not dealing with refugees. We think that the code of guidance as currently constructed should enable authorities to view refugees as vulnerable for other special reasons. However, in terms of legislation, the matter is not competent. Is there anything that you wish to add, Lindsay?

Lindsay Manson (Scottish Executive Development Department): Refugees who fall within any of the other priority need categories would be considered as a priority need case. For example, a refugee who was homeless and had a family, was chronically sick or was young would be treated as falling within priority need. What we were unable to accommodate in the bill was the inclusion of refugees as a vulnerable category just because they are refugees.

The Convener: Representatives from the Big Issue highlighted the need to increase awareness among homeless applicants of the role of local authorities and the need for local authorities to demystify the process surrounding homelessness applications. How does the Executive intend to address those awareness-raising and transparency issues so that the bill can be effectively delivered?

Hugh Henry: There will be publicity as the bill is implemented, but the issue is really for local authorities to ensure that their housing policies are widely known in their areas. Whether people are unaware is a moot point. Some local authorities have already experienced a significant increase in the number of homelessness applications, which suggests that people are aware of their rights.

One significant issue is the need to destigmatise homelessness in the eyes of the public and to address the view that somehow if someone is homeless, they are a problem, when it may be the case that they are trying to escape a problem. Many people who do not have social problems are required to declare themselves homeless—for example, to escape domestic abuse. We expect local authorities to ensure that information is widely available in their areas, as we expect them to promote other services. However, I hope that

we can encourage a debate that sees homelessness as perhaps a positive response to particular needs that people have at specific times in their lives.

Robert Brown (Glasgow) (LD): I wish to take up a point about refugees. As I understand the matter, there is a distinction between asylum seekers who do not yet have a right to settle in Britain and people who have been given the right to settle. Am I right in saying that you cannot deal with the first category, because they are dealt with under the national asylum support service arrangements?

Hugh Henry: Yes.

Robert Brown: Am I also right in saying that, once they have the right to settle, people are just ordinary citizens—they are dealt with under the categories that apply to everyone else, but with no specific provision for refugees?

Hugh Henry: That is right.

Robert Brown: Is there really a handicap in your ability to deal with refugee problems?

Lindsay Manson: The legal advice is that, because UK legislation gives refugees their status, we cannot introduce legislation that increases that status. If we did, we would be increasing the status that had been conferred by UK legislation. We are continuing our discussions with our solicitors and with the Home Office, whose legislation it is, to see whether there is any impediment to refugees being identified in the code of guidance, as they currently are, or whether we can use any other mechanism to take the matter forward. However, we cannot take the matter forward within the context of the bill.

Robert Brown: I presume that the practical effect of that is that there is no problem in relation to families, who are a priority anyway, and that after the changes you will probably be limited to dealing with young men and women who are over 18 as the problem area.

That leads on to the next question, which is more general. We have had evidence suggesting that the expansion of priority need to include 20 to 24-year olds might be reasonable, because of the high-risk element and issues of maturity. Would you be prepared to consider that as one of the steps along the line of issues with which we are dealing?

10:15

Hugh Henry: It is important to consider the extension that is proposed in the wider context of the eventual abolition of categories within priority need, so that everybody who has a homelessness problem should be dealt with as such. We think that it is right to consider the issue incrementally.

The people whom you mention are still relatively vulnerable, perhaps because of their inexperience. The last thing that we want to do is to create a demand or set of expectations that people are not able to cope with. The progressive way of dealing with the issue will build experience. I hope that it will leave local authorities in a good position to be able to assess everyone who has a homelessness problem in the same way, rather than having to distinguish between groups as priorities.

Robert Brown: In your introductory remarks, you talked about investment. I know that we will have to wait for the housing plans to see the details, but do we have a ballpark figure or an idea of the kind of resources that will be needed to deal with the issue over a period? It is accepted that the immediate change will not make any difference in resources, but thereafter there could be a considerable impact. Do you have any idea about that at the moment?

Hugh Henry: There is a great deal of guesswork. Some people are looking at the worst-case scenario. It is important to remember that on average around £350 million per year is being spent up to 2005-06. For homelessness, £127 million in total will be spent up to 2005-06. It is probably more realistic to wait until then and to see how things have bedded in before we take stock. We have given the commitment that we will not move on until such time as we can all be assured that we are able to do so.

To some extent, we could speculate fruitlessly and worry ourselves needlessly about the problems that might or might not arise in a few years' time. Everyone is agreed that the first phase of implementation can be handled. I am not sure that it would be entirely productive to start committing resources to those who would perhaps enter into a bidding war at this stage. We want to ascertain the facts and it is perhaps more sensible to discuss the issue nearer the time.

Robert Brown: I have a technical point to raise. There was some debate last week about the tenancy arrangements that would be operable and the difference between the probationary tenancies under the Housing (Scotland) Act 2001 and the arrangements under the Homelessness etc (Scotland) Bill. Views were expressed that there might be an advantage in councils and other landlords having a sort of management transfer discretion within the 12-month period, rather than their having to put up with difficult tenants until the end of the period without the ability to move people on. Do you have any views on that?

Lindsay Manson: COSLA has asked whether there is an issue over probationary tenancies and how they compare with probationary tenancies elsewhere. We will continue to discuss that issue with COSLA. The principle behind the bill is that

there should be a period during which the rules are set out clearly from the landlord's point of view, the local authority's point of view and the tenant's point of view and that the tenant should be given sufficient time to prove themselves. A year was regarded as a reasonable period for that. The issue could be considered further.

Hugh Henry: We also want to ensure that what we do in one strand of our policy does not undermine other policy strands. In recent years, there has been a significant discussion about the responsibilities that come with tenancies. For a while, people saw the right to a tenancy as being not only fundamental but abstract because it did not matter what they did in the tenancy. We need to encourage responsibility and to stress the implications and unsettling effects of irresponsible behaviour, not only on the person's tenancy, but on those around them and on the wider community.

We do not want the bill to undermine another debate, but we would not want anything that comes about as a result of that other debate to undermine people's fundamental right to housing. We are trying to reach a sensible compromise and, to some extent, we are learning as we develop the new measures. We will reflect on and consider ideas that would help to create a more coherent framework.

Robert Brown: That is a helpful response. As you will know from my comments on other bills, I am not one for undermining people's rights, but it seems to me that if we do not get the bill right, rather than improving homeless people's status, it might increase their bad reputation and the stigma attached to them. I am concerned that problem situations, which impact on neighbours, will continue and that we will not be able to do anything about them.

Hugh Henry: It is not our intention that people who are unable to sustain tenancies and who have behaved inappropriately will be able to escape the consequences of that behaviour by seeking sanctuary through the homelessness legislation, which aims to deal comprehensively with a fundamental social problem. Time and again, we are at pains to emphasise the importance of the wider debate on rights and responsibilities, which go hand in hand.

Robert Brown: My final point is about the bill's implementation. As you rightly said, homelessness does not exist in isolation. The extension of the rights of homeless people who are on the housing list to obtain accommodation impacts on other housing issues. Is the balance right? Do you foresee problems arising as the bill is implemented as a result of the balance between the rights of homeless people and those of other categories of people on housing lists?

Hugh Henry: We all agree that the last thing that we want is people sleeping rough and no one disputes the fact that great efforts have been made to end rough sleeping. Clearly, we do not want families with children to be exposed to the dangers of not having accommodation. We all accept the fundamental principle of the need for housing. As I said, nearer the time of implementation, we will reflect on the resource demands and discuss the matter with the partner agencies.

The bill's intention is not to suggest to people that the only way in which they can get a house is by declaring themselves homeless. It would be unfortunate to say the least if the bill had that consequence. Instead, the bill aims to meet a specific identified need at any one time and must be considered as part of the wider housing strategy. That is why we are encouraging local authorities to produce local housing strategies. We are all aware of the problems that have developed in many communities over many years because allocation policies have not taken into account the need to achieve proper balance and long-term sustainability.

I re-emphasise that, although the fact that someone is homeless does not mean that they are a social problem, we are aware of the potential for homelessness legislation to create an imbalance in relation to allocations for certain household compositions. That is why housing authorities must look carefully at local housing strategies and at their allocations policies and must consider how to create balanced and sustainable communities. If that is done, there is no reason to fear the bill.

The Convener: One of the arguments against priority need is that it was introduced originally as a means of rationing housing. One could also argue that it has been used as a way of rationalising the way in which homelessness is dealt with. If everyone is a priority, in effect that means either that no one is a priority or that the people who become a priority do so on the basis of a set of criteria that particular housing officials in a particular authority use. Is that a concern and, if so, how can we address it?

Hugh Henry: It would be a concern if local authorities were behaving inappropriately, for example, by discriminating against certain groups, for whatever reason. It is right to move to a situation in which we all have the same right to housing. However one describes it, there will always be a degree of rationalising or of determining how to apply scarce resources. You are asking about only one stage in the process. Other questions need to be addressed, such as intentionality and whether a housing need exists. If there is such a need, one has to determine how it can best be met.

That has not emerged as a concern in the responses that we have received from organisations and local authorities. There might be specific concerns in certain parts of the country where there is a particular housing problem—for example, in rural areas. That is a different debate. I am not aware that the abolition of priority need will be a problem.

The Convener: Is not it the case that a system of priority need provides transparent rules by which people must operate? If everyone who comes to the door who has been defined as homeless has an equal right to housing, how can that situation be managed transparently, so that the most needy are helped? Is it a case of first come, first served, or will housing be allocated according to factors such as who is the most vociferous and who causes the most bother within the local community? It is not explicit how the issue will be dealt with.

Hugh Henry: It will be for the local authority not just to draw up its housing strategy, but to have in place a comprehensive allocations policy that is seen to be transparent. The allocations policy will be a significant tool in determining how houses are allocated.

Through Communities Scotland, we will monitor how local authorities and other housing organisations allocate their houses. There will always be a reflection of need. For example, we would expect families with children to receive preferential treatment when a three or four-bedroom house is available. Such decisions are best made at a local level. It is not for legislation to prescribe on such matters.

Lindsay Manson: In the past, homelessness legislation has operated almost on its own, backed up by the guidance. When it is enacted, the Homelessness etc (Scotland) Bill will be very much part of local authorities' operation of their homelessness strategies, which will set out how they intend to take forward the legislation and their broader approach to homelessness in their area.

For the first time we will have a much better understanding of the pinch points and the key problems in particular areas. The delivery of the strategies will be regulated by Communities Scotland. We will then have a much better context within which to operate homelessness legislation compared with what has happened in the past.

10:30

Mr Kenneth Gibson (Glasgow) (SNP): We are dealing with the old argument about what is subjective and what is objective. I appreciate what the minister has said, but the concern is that, if local authorities have specific allocations and policies that differ significantly from those in a

neighbouring authority area, the issue of local connection might break down. Some people might think that it would be more productive for them to move across a local authority boundary. That is where the local connection issue might become more significant than it is now.

We heard from the chief housing officer of the Hamish Allan Centre at our meeting last week. He said that he had concerns that, although local authorities might follow the rules quite strictly, and despite officers' training, individual officers' views—prejudice would be too strong a word—might come into play. Unless everything is laid down quite strictly, there is a concern that there will be differences, not only between local authorities but even between housing departments serving similar areas. Some of us are somewhat uneasy about how that whole issue would work out in practice.

Hugh Henry: I do not think that what Mr Gibson describes is that different from what obtains at the moment. There is the potential for just such problems as things stand now. It is important to remember that all local authorities would be subject to legal challenge should they fail to carry out their statutory duties. People would have the right to challenge what would be very wrong decisions. There are also options for claiming maladministration.

We are aware of the concerns that have been articulated. One member of the committee—Karen Whitefield—has written to me about local connection. We do not think that there is a major problem in that regard, but we have said that we will take steps to remove or reinstate the current practice should that be required. We will consider the matter carefully over the period to come, to ascertain whether there is an issue on which we need to reflect, and we will pay heed to whatever representations are made.

Karen Whitefield (Airdrie and Shotts) (Lab): You are aware that, at previous committee meetings, we considered intentionality, in particular the continuing duty on local authorities to provide accommodation for homeless people unless they find a tenancy for themselves. Do you envisage any other circumstances in which a local authority would not have a requirement to provide someone with accommodation? For example, the person concerned might have been responsible for serious anti-social behaviour in their community. Are there reasons why you believe it to be more important for local authorities to provide accommodation in addressing anti-social behaviour?

Hugh Henry: Anti-social behaviour is a persistent problem, with which we have all struggled. We have seen the consequences of the actions of people who feel that they have no

responsibility to the wider community and cause misery and mayhem. It is right that we give a sense of confidence to communities that unacceptable behaviour will not be tolerated. I could give you anecdotal evidence from my constituency of what anti-social behaviour does, not just to a close, but to a street and to the wider community. It is clearly unacceptable. The First Minister has made it clear that he is determined to act on those issues.

Equally, we have collectively welcomed the moves to end rough sleeping. If we were simply to say that we will tackle unacceptable behaviour by denying access to housing, we would need to accept a rise in the numbers of people sleeping rough. That would then bring us back into the cycle of requiring to put money in so that we can tackle rough sleeping and get people off the streets, which we all say is socially unacceptable.

The way forward is that we need first to look at prevention and then, for those who have not accepted that support, rehabilitation. We know that rehabilitation support is expensive, but it is probably better to address the problem at that stage than to have people sleeping rough, with all its associated problems such as vulnerability to other abuses, be that addiction or some sort of physical abuse.

We know that authorities are starting to invest. Indeed, a number of projects have made applications for assistance through the supporting people programme. Some authorities are considering the provision of hostels or supported accommodation, but it may be that a range of flexible and imaginative measures will need to be introduced rather than simply individual tenancies in a street. We do not want to revisit some of the previous horrors that we have tried to move away from; there have been examples across the country of where supportive measures have worked well.

If we were ultimately to accept that everything has broken down and that nothing can be done, we would need to ask ourselves whether we were prepared to accept the consequences—that people would be without any accommodation whatsoever. We are trying to avoid that, but we recognise the difficulties and the costs that are involved. That is why authorities are able to seek money through the supporting people programme.

Karen Whitefield: I want to ask about a couple of issues. Is there a need to stage full implementation of the duty to continue to provide housing so that we can be sure not only that the money is available but that the type of accommodation that is needed is available? As the minister rightly said, there are limited examples out there of the kind of support that might be required. The committee has heard

repeatedly that there is little evidence of what works. The Dundee families project has been touted as an example of best practice, but that is primarily for families, whereas single men, single women and people with mental health problems will also need support.

In addition to staged implementation, how will we take forward the work of considering which models will deliver the type of support that will be required to allow local authorities to support individuals with complex and problematic needs?

Hugh Henry: The two key dates are 2005 and 2012. We have made it clear that no move forward would be sanctioned at either of those stages unless we were sure that the resources were available and that the system could cope. Over the next few years, we will have the opportunity to have discussions with colleagues in local government—not only housing departments but other departments—and in health with the aim of ensuring that the support structures are available.

Everyone is agreed that the next phase, which is up to 2005, is capable of being funded and that there should be no significant resource implications. At that stage, we will take stock before we make any decision to move on. That should give local authorities the opportunity to consider how well the projects that they are developing under the supporting people programme are working and to feedback to us through COSLA and other organisations. We will continue to monitor the matter; there will be comprehensive discussions; and Parliament will have the opportunity to reflect on the lessons that will be learned over the next few years before ministers decide to move on.

Karen Whitefield: Will the monitoring group established by the Executive have overall responsibility for pulling all that together? Every local authority will try to respond differently to its local needs, and what suits one authority will not necessarily suit another. As a result, who will have the responsibility for ensuring that local authorities explore various options such as hostels and so on? I am thinking in particular of last-resort accommodation, for which not many obvious models exist at the moment.

Hugh Henry: I will ask Lindsay Manson to tell the committee how we will address that matter. I should emphasise that we will not prescribe how local authorities tackle things. Whereas one local authority might decide that hostel accommodation is appropriate, a neighbouring authority might decide to introduce an alternative. However, we want to ensure that local authorities share best practice. Equally, we want local authorities to share the problems that they have had, to ensure that no one goes down the same route. We also want to reflect on whether the resources that have

been made available have had their desired effect and will allow us to move on to the next stage. Over the next couple of years, there will be a thorough examination of what has been done.

Lindsay Manson: I do not really have much to add, except to say that the monitoring group will have a very important role. At the moment, it is examining the information streams that are available. However, it recognises that it will need to improve and increase the information that it receives about what is happening in local authorities now and which it will receive about how things change as we implement the bill's various elements. The group will pull all that together and provide ministers with regular progress reports.

Mrs Lyndsay McIntosh (Central Scotland) (Con): We have heard a lot about the issue of local connection, and you have already responded to some of the concerns about it. However, you will be aware that the week before last, Highland Council told us that the effect of people from large conurbations going into rural areas might be greater than expected. Will you give us an example of when you might consider reactivating existing rules about local connection? I know that some authorities have expressed concern about it, particularly those in areas such as the Highlands which do not have the same amount of housing stock. It could be perceived that people who express a desire to live there could be queue-jumping, for want of a better word.

Hugh Henry: I do not propose to give you an example, because we could end up debating my examples all morning. With an area such as Highland, a number of factors come into play. We are putting a significant amount of money into housing in rural areas and want to increase the availability of housing stock across Scotland. We should remember that local authorities such as Highland Council have the option to apply for pressured area status if they feel that measures such as the right to buy pose problems. Indeed, we know that it has caused very significant problems in remote Highland communities where there are a number of second homes. We await Highland Council's response on that issue.

Earlier I indicated that, in light of the responses that have been made, we will reflect on various local connection issues. It remains to be seen whether we can make an appropriate decision; however, I know that a number of members and organisations have argued for local connection.

Highland Council needs to examine its local housing strategy and we need to consider the effect that the investment will have and react to identified specific problems, rather than responding on a "what if?" basis. Other options are open to Highland Council if it feels that it is appropriate to take them.

10:45

Mrs McIntosh: In the event that reactivating the suspended local connection rules comes into force, will everyone know about it in advance?

Hugh Henry: We hope that the decision will be clear and transparent. Given the size of Scotland, I am quite sure that, if one authority is considering that move, neighbouring authorities will be aware of it. While we have a right to act in relation to an individual authority, we need to recognise that, given the density of authorities in some parts of the country, introducing something in relation to local connection in one area will have a knock-on effect in another area. We are aware of the implications.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): The evidence that the committee has taken has shown that there is general agreement to the principles of the bill. In fact, some of the people who talked to us last week had smiles from ear to ear because the legislation was being introduced.

However, while there are some minor questions that we hope the Executive will consider as the bill progresses, the big question comes down to finance. The relevant professionals—COSLA, the Chartered Institute of Housing in Scotland and the Scottish Federation of Housing Associations—all suggest that the only way in which the bill can succeed is if there is enough money to go with it. Witnesses have expressed a lack of confidence in the Executive's willingness to put its money where its mouth is. How would you respond to that?

Hugh Henry: I would repeat what I said earlier about the significant investment that we are making up to 2005-06—£350 million per annum, on average, in relation to housing and £127 million in relation to homelessness.

At the moment, we are not persuaded of the figures, but we have said clearly that we will not move on to the next stages unless they are capable of being funded and supported. I cannot give any future commitments. I am not in a position to do so and I am sure that the Minister for Finance and Public Services would have something to say if I were to do so. The issue will be considered, along with bids from other departments, at the appropriate time. We believe that the resources are available to manage and support the legislation. However, there will be an opportunity to have a thorough and wide-ranging debate in the next few years before any decision is made to move on to the next stages.

Cathie Craigie: Do you accept that, in order to provide adequate housing—whether through new build, redevelopment, modernisation and so on—to meet the demand that we will create, there will have to be significant increases in the development fund and that the Executive has to

plan ahead, even though the bill provides for phased implementation of the measures that it contains?

Hugh Henry: I accept that there is a need for forward planning. We need to think very carefully about what the housing needs of our society will be in 10, 15, 20 or 25 years. We have an aging population and huge demands will be placed on us as a consequence. We know that people are living longer and that the post-war baby boom will produce a significant number of older people with particular housing needs. That has implications for community care and for hospital services, so we must get our planning right.

We need the right type of housing for the population that we will have in the next 20, 30 and 40 years. The money that I mentioned does not include the money that would accompany debt relief for authorities that choose stock transfer or the private investment that will be made. We know that some authorities will gain significantly from the prudential regime for housing that we have announced. Authorities with low debt will be able to use that to their advantage. They will be able to invest in their housing stock, if they think that appropriate. There will still be an issue for authorities with high debt, which we believe would benefit from whole stock transfer and everything that flows from that. Through a combination of the measures that I have described, a substantial amount of money may be invested in housing.

We accept that we must consider this issue in a planned and rational way, so that investment reflects the future needs of society. However, I cannot and will not commit myself to an increase in the development fund. We believe that the amount that we have invested is appropriate. As I said earlier, we will hold discussions with everyone involved before proceeding.

Cathie Craigie: The financial memorandum that accompanies the bill indicates that cost savings will accrue to local authorities when the bill is implemented. How and in what areas do you envisage those savings being made?

Hugh Henry: In her reply to the Finance Committee of 11 November, Lindsay Manson stated:

"Savings resulting specifically from the provisions of this Bill cannot be quantified at this stage".

I ask Lindsay Manson to explain that in more detail.

Lindsay Manson: We expect that there will be some savings from the removal of the duty to investigate intentionality and its replacement with the power to do so.

We have stressed the importance of seeing the bill as one element of the report of the

homelessness task force. The bill delivers about five of the 59 recommendations of the task force. In the context of the recommendations as a whole, we expect significant savings to be made. A substantial number of the recommendations relate to the prevention of homelessness. When discussing the report, the members of the task force recognised that the earlier intervention takes place, the cheaper the costs of intervention. If intervention is delayed until homelessness has become a crisis, the costs can be much higher.

One difficulty in establishing what the situation will be in 2005 is balancing the impact of the bill with the impact of all the other recommendations of the task force. One of the stated aims of the recommendations is to reduce the number of people who present repeatedly as homeless, so that a successful outcome is achieved first time round. If we can stop people going round the cycle of homelessness, there will be savings from reduced presentations and reductions in the cost of providing solutions.

The Convener: Do you not think that there is a pressure because of the legislation? There are people who become homeless because of things that are happening to them rather than things that they have caused to happen. They form one group of the homeless. I am conscious of stigma. For some people, their homelessness is a symptom of other problems, such as a chaotic family life or drug misuse. Is there not a danger that because the bill forms one element of the homelessness task force's report, the social justice funding might be skewed? There might be pressure on ministers to put money into issues that we have said are important enough to be legislated on, when it might be easier to deal with the other problems of someone who is suffering a chaotic family life and whose homelessness is just a symptom.

When we are under pressure to end priority need and to consider reimposing intentionality, will we not end up with budgets being skewed towards what you have identified as a legislative priority and away from the other homelessness task force recommendations, which might address social inclusion and housing issues?

Lindsay Manson: The monitoring group's remit is to act on the homelessness task force's report in its entirety. I assure you that the group takes that remit very seriously. It is doing a lot of work with the Scottish Prison Service, for example, considering projects to prevent homelessness among prisoners prior to release, rather than addressing the problem after they become homeless on release.

All the recommendations are being reported on and acted on equally. The recommendations that the bill will implement will be implemented in the context of the others.

Hugh Henry: It is also important to remember that some of the support services that the convener is talking about are being addressed through the supporting people programme. At the moment, there is a different funding stream for that. Negotiations are taking place with our colleagues in the DWP about transitional housing benefit.

Some of the problems that the convener identified, such as chaotic lifestyles and wider social and personal problems, would have to be addressed even if there were no housing need. That requires a more comprehensive local approach that engages colleagues from the SPS, social work and health. We are all aware of the huge cost of failure. We hope that we can start to respond in a more supportive way to prevent some of those problems from occurring.

The Convener: You have legislated on certain recommendations and local authorities will have to identify resources and put money into developing systems that will address the consequences of the legislation. As a result, you are making a resource judgment about the other recommendations from which it would be difficult to pull back. I argue that you could be competing for resources with a particular group for whom homelessness is only a symptom of other problems. You might want to address other symptoms to deal with homelessness, and the homelessness task force acknowledged that.

Once local authorities have gone down the road of having to identify resources to deal with the consequences of the legislation, they will not pull back from that and say that the system is not working as well as another system might. Five recommendations have been prioritised as issues that will make a difference. One could argue that dealing with those difficulties by considering them through the prism of homelessness will address all the other difficulties, but there is a strong argument that those difficulties could be dealt with in other ways.

Hugh Henry: You say that those problems could be dealt with in other ways. I return to the point that someone's housing situation is one manifestation of a wider problem. Money will go in through the supporting people programme.

Even if we decided not to do what we are doing in relation to the legislation on homelessness, and even if we decided not to address people's housing problems, there would still be fundamental social and personal problems to be addressed in the communities in question. In many cases, those problems are not being addressed and not addressing them creates wider problems.

Some communities are under stress and on the point of despair. There are wider issues to do with

anti-social behaviour and youth crime. A more holistic approach to many such problems is needed, and we need all agencies to be engaged. It is hoped that we will be able to respond to the housing element in a way that supports the other measures that should be in place in the wider community. I am quite clear that housing someone, in and of itself, does not resolve all other problems, either for an individual, a family or the wider community. It would be foolish to think that we will resolve those problems simply by changing the legislation on homelessness. However, if we can take a comprehensive approach to local communities, it will contribute to improving things.

11:00

Robert Brown: The holistic approach seems to suggest that, rather than having just homelessness assessments, there should be a much greater emphasis on homelessness and support assessments. On the point that the convener made, is the balance right? We discussed that earlier and asked whether support should be emphasised much more than it is currently.

Hugh Henry: I am not quite sure that support could be properly prescribed on the face of the bill. In any case, that would be legislating on an issue other than housing or, indeed, homelessness, and would have implications for social work legislation and the Children (Scotland) Act 1995. It is difficult to respond on what the wider legislative implications would be.

Robert Brown: Homelessness is seen as a trigger that allows public authorities to apply their minds to the issue, which perhaps does not always happen. If the problems are to be dealt with and solved, the entire picture must be considered. There are some good experiments, such as that in Glasgow. Are we bringing all mechanisms to bear effectively? Is there a risk that councils will take a narrow approach in some instances?

Hugh Henry: The local housing strategies should reflect some of that because such strategies cannot be constructed in isolation from other council departments or other agencies or organisations in a locality.

We are not proposing legislation that constructs a model for social behaviour. The legislation deals with the specific issue of homelessness. We are aware that homelessness arises as a result of a range of factors. We hope that agencies and local authorities are addressing some of the problems that can lead to homelessness.

If we did what Robert Brown suggested, it would result in a completely different bill that would not

be about homelessness or even housing. Even trying to introduce at this stage a slight amendment that imposed such a requirement would have huge ramifications, because that goes much further than housing.

Robert Brown: I have one other question about resources. We have said that we will not proceed with the bill until the resources are in place. The other side of the coin is the question of what resources need to be put in place, which must happen, or at least begin to happen, long before 2005. There is a difficulty in getting a handle on what works and what does not, what is currently there and what is not, and on whether there is too much emphasis on advice and whether there should be more emphasis on bricks and mortar. Are you planning any detailed research to give local authorities an indication of best practice or of the variances between rural and urban situations? That element needs to be more developed and refined if we are to get the best value out of the substantial amount of money that we will put in.

Hugh Henry: The local homelessness strategies and assessments will provide much of that detail. We have indicated what we expect the monitoring group to do at the all-Scotland level. Earlier, I said specifically that I want best practice to be shared. However, I also want to ensure that mistakes are shared. People should not just hide mistakes, but let others know of them. The last thing that we want is people inadvertently tripping into problems. Mistakes should not be regarded as something that justifies punishment but as something that is worth acknowledging.

There will be comprehensive discussion over the next few years. I think that everyone accepts that the money is there for the first phases. We think that the resources are there for the future, but we will reflect on that carefully over the next few years. We have no plans to undertake research, but we will see what comes from the homelessness work at a local level and from the monitoring group.

Mr Gibson: Time and again, witnesses have referred to support. Some witnesses have noted that support provision such as pre-tenancy support falls outwith the scope of the supporting people initiative. How would you address that issue, taking on board your comments about the bill's limitations? If you do not intend to conduct research, how will monitoring identify gaps in provision, and how will those gaps be addressed?

Hugh Henry: Awareness of the gaps in provision will come from information that local authorities provide to us. I assume that they will identify particular problems and gaps in their areas. We will certainly collate such information. Whether we need academic research to identify gaps is a moot point, although we remain open to

persuasion on that. If we feel that research is appropriate, we can consider it. However, we will collate detailed evidence from local authorities.

On the specific issue of the—

Mr Gibson: Supporting people initiative.

Hugh Henry: Yes. The pre-tenancy—

Mr Gibson: Yes, the issue is pre-tenancy support—assuming that people are ready to take on a tenancy in the first place.

Hugh Henry: Perhaps Lindsay Manson can deal with that.

Lindsay Manson: Support can cover a range of matters. Not all support is directed at homelessness; some support might become a part of preventing homelessness. Much support is already provided, for example through funding to local authorities under the rough sleepers initiative. Some interesting projects have been developed for young people, particularly in Edinburgh, through the empty homes initiative.

Local authorities, through the development of their homelessness strategies, will want to identify a range of appropriate mechanisms for preventing homelessness in their areas. It is clear that their first reference will be the extent to which those mechanisms are eligible for supporting people funding. Other funding sources within local authorities and through the homelessness budget line, to which the minister referred, might be appropriate for funding projects that are not eligible for supporting people funding.

First, we must see what is in the detailed assessments and the homelessness strategies and how those will connect with the local housing strategies and the supporting people strategies. The interlinking of all those strategies will provide a full fund of information at national and local levels and will identify where the gaps are. That is the basis on which the monitoring group will develop its advice and recommendations.

Hugh Henry: It is also fair to say that local authorities have put a great deal of effort into identifying what can be achieved under the supporting people programme. One or two particular projects might not fit the criteria, but I can assure members that authorities throughout the country have successfully proposed many projects.

Mr Gibson: A witness at last week's meeting said that the word "support" is often used but everyone round the table probably has a different definition of it. What does the Executive understand by the word "support" in relation to homelessness and housing?

Lindsay Manson: Support is not defined, because it can mean different things to the

different people to whom it is applied. It would be inappropriate to define support too tightly because a particular group might be excluded from the particular service or help that it needs.

Support can be something as simple as assistance with managing finances or it can be much more structured and intensive, such as assistance for people with very complex needs, to give their day a structure, which allows them to connect with the services that can provide them with help. It would not be helpful to define support too tightly.

Hugh Henry: It can be difficult to be prescriptive in legislation. We know that, over the years, where authorities have looked imaginatively and flexibly at what support could mean, huge advances in the way homelessness is dealt with have been made. As I previously worked in Glasgow, I know about the significant improvements that Glasgow City Council made. Authorities throughout the country copied those improvements. Some of the improvements were made because the council used its discretion, considered broad definitions and applied them imaginatively. That is probably still the best way forward.

Mr Gibson: Resources have come up throughout the discussion today, as they have done in previous meetings. The Finance Committee's report on the financial memorandum raises a number of concerns. It asks us to raise the specifics with you.

At paragraph 31 of its report, the Finance Committee states:

"In the light of the inadequacies in the Financial Memorandum, we strongly recommend that the Social Justice Committee carefully considers the practicalities of implementing the legislation and the impact that its introduction would have on housing allocation mechanisms, the availability of good quality houses for tenants who are not homeless, and other Executive policy intentions."

A thread runs through the Finance Committee report. COSLA comments that it is

"not at all reassured that there are sufficient resources in the supporting people proposals."

We have just touched on that. The report states that the

"SFHA felt that 'the potential revenue cost of providing support services is understated in the memorandum'"

and that

"Highland Council explained that its resources are only sufficient to allow it to provide 8 additional units as opposed to an overall demand for 285 new units for all of its needs. Communities Scotland ... acknowledged that 'a number of local authorities could have commented similarly.'"

Bearing in mind what has been said today, how do you respond on that issue? What impact do you think the bill would have on other aspects of the Executive's programme?

Hugh Henry: You have an advantage over me; we have not seen the Finance Committee's report on the financial memorandum, so it would be very difficult to respond to your specific points.

Mr Gibson: I am sorry; I did not realise that.

Hugh Henry: The concerns of Highland Council have previously been articulated to the Social Justice Committee. We are aware of those issues and have referred to some of them in passing.

I will repeat some of the comments that we made earlier. We believe that the money for the first phases is available. We will consider and reflect on what comes out over the next couple of years before any decision is made to move on. The assurances have been built in and given. I repeat that significant levels of investment will go into housing over the next few years. I think that the announcements made by Margaret Curran about the prudential regime will be of significant benefit to a number of authorities. Other options are still open to authorities that do not benefit.

There is clearly a difference of opinion between other organisations and the Executive about what the future demands might be. Time will tell. We will consider the matter, but at the moment there is probably not a lot that we can do to resolve it. They are saying one thing and we have a different view. Not much more can be said other than that safeguards have been built in.

The Convener: The Finance Committee's report is to this committee and will be published as an annexe to our stage 1 report. It will therefore be material to the stage 1 debate. This committee will be the forum for us to pursue matters on the Finance Committee's behalf. The minister will be afforded the opportunity to read the full stage 1 report when it is published.

Hugh Henry: Thank you.

11:15

The Convener: As members have no more questions, I thank the minister and his officials for attending. If you wish to pursue or clarify points once you have reflected on what has been said, we will be more than happy to hear from you again. In the meantime, I thank you for answering our questions.

I inform the committee that the plan is that the clerks will draft an issues paper for consideration at our meeting on 4 December. I understand that the final stage 1 report must be signed off on 11 December. We will not meet next week, which will give us enough time to consider the issues fully.

Petition

Advice Services (PE396)

The Convener: Members will recall that the committee last considered petition PE396 at its meeting on 17 April 2002. At that meeting, we agreed to write to the Minister for Social Justice. Members will find the minister's response and a copy of the petition attached to the paper for agenda item 2. We dealt with money advice in some detail in our recent consideration of the Debt Arrangement and Attachment (Scotland) Bill. Do members have any comments on the clerk's recommendation?

Robert Brown: The minister's letter is dated 25 July, so why are we dealing with it in November? That does not seem terribly satisfactory. Perhaps we agreed to something that I have forgotten about, but the gap seems big.

The Convener: The petition has returned now because we agreed to deal with it in the context of the Debt Arrangement and Attachment (Scotland) Bill. We agreed that we would take the petition into account at stage 1 of that bill. Now that that process is over, we are responding formally to what the minister said and to the petition.

Robert Brown: I have pushed from various points and directions on the matter the petition raises. I am not sure whether the minister's reply deals with it. The issue that emerges from Mr Fletcher's letter is core funding for citizens advice bureau services. That reflects the wider voluntary sector problem of core funding, which we have discussed. We could pursue with the minister whether core funding for CAB services throughout Scotland will receive further attention.

I accept that the detail about matters such as the number of CABs and other provision is for local authorities, but it is not particularly satisfactory—to put it no more strongly than that—that in several areas, of which Edinburgh is perhaps the most obvious, this important service is subject to such a cut and its accompanying problems. I am not sure whether the minister has addressed that. Her answers relate to surrounding issues about legal advice and debt advice, which are not the central point of the petition.

The Convener: I suspect that you are trying to stretch the petition to a broader issue that it does not ask us to address. The petition asks us to deal with funding in Edinburgh, which is clearly a matter for the City of Edinburgh Council. Subsidiarity clearly applies, as we said in our stage 1 report on the Debt Arrangement and Attachment (Scotland) Bill, in which we also welcomed the fact that additional funding was made available. I would be

reluctant to stretch a response to the petition to broader issues. That might send out a message about subsidiarity in relation to local authority decisions.

Robert Brown: I say with respect that I did not refer only to Edinburgh. I said that Edinburgh was the key example.

The Convener: We are responding to the petition, which deals with that.

Cathie Craigie: The convener is right to remind us that the petition is about Edinburgh. We must leave local decisions to the City of Edinburgh Council. I feel confident in saying that because when the committee has taken evidence on matters such as debt and the advice that is available to members of the public, we have often been told about good practice in organisations in the Edinburgh area, particularly in respect of advice on courts, repossessions and evictions. The decision to reduce funding in Edinburgh this year may be because broader areas of advice in the Edinburgh area are being considered. That said, I accept the clerk's recommendation.

Mr Gibson: I agree with Cathie Craigie. We debated aspects of the matter last week during the debate on the Debt Arrangement and Attachment (Scotland) Bill and it would not be helpful to pursue the matter any further at this stage. Colleagues' comments have been well made.

The Convener: It might be worth highlighting the fact that, in writing to Iain Gray, who was the then minister, we expressed our concerns about matters raised in the petition and we reaffirmed that the Executive should continue its support to advice organisations. The Parliament took a view last week on how the balance should be managed.

Robert Brown: Despite what was said earlier, it seems to me that the petition is not about Edinburgh specifically, although it arises out of experience in Edinburgh. The petition calls upon the Scottish Parliament to

"ensure that free and independent advice services are available"

throughout Scotland. That is the petition's central point and Edinburgh is used as a classic example.

We have had a number of debates on the matter, but I am not satisfied with the outcome of them. I propose that we write again to the minister to express our continuing concern about core funding support for Citizens Advice Scotland in particular, which is the national organisation that provides a considerable part of debt advice in Scotland. We have received evidence from various levels on that issue.

The Convener: You are right about the petition. Karen Whitefield and Kenny Gibson want to say

something; I then intend to put Robert Brown's proposal to a vote.

Karen Whitefield: I did not want to speak about the petition. It is not helpful to rehearse arguments about the provision of independent advice that we have already debated in the committee and in the Parliament. The provision of advice services was covered extensively in the stage 3 debate on the Debt Arrangement and Attachment (Scotland) Bill. Nothing is to be gained by our writing to the minister again at this time.

The second paragraph of the petition suggests that the problem is Scotland-wide, but it starts by expressing the petitioners' concerns about Edinburgh citizens advice bureaux. They are attempting to raise concerns about a matter on which the City of Edinburgh Council should take decisions. We should not become involved in the matter. If the committee started to question and intervene in every decision local authorities took whenever an organisation raised concerns, that would set an unhelpful precedent. The petitioners are right to raise concerns, but they should raise them with the appropriate bodies or organisations.

Mr Gibson: I agree with Labour party colleagues. It is less than seven days since we debated amendment 45, on which Robert Brown abstained. Parliament reached a decision last week. We must let the matter rest and follow the recommendation in paper SJ/02/21/2.

Robert Brown: I would like to push the matter to a vote. I accept that we are dealing with an issue that has local and national implications—there are no two ways about that. The petitioners' central point is the Scotland-wide position, which is why it is appropriate for the matter to progress as I suggest. I stand by my proposal.

The Convener: Robert Brown proposes that we write again to the minister to express our concerns about the issues that are highlighted in the petition. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Brown, Robert (Glasgow) (LD)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Gibson, Mr Kenneth (Glasgow) (SNP)

Lamont, Johann (Glasgow Pollok) (Lab)

McIntosh, Mrs Lyndsay (Central Scotland) (Con)

Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Does the committee therefore agree to take the approach that is suggested in paragraph 2 of paper SJ/02/21/2?

Members indicated agreement.

The Convener: I thank members for their attendance. The next meeting of the committee is in a fortnight.

Meeting closed at 11:24.

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