



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 26 October 2010

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2010

Applications for reproduction should be made in writing to the Information Policy Team, Office of the Queen's Printer for Scotland, Admail ADM4058, Edinburgh, EH1 1NG, or by email to:
licensing@ogps.gov.uk.

OQPS administers the copyright on behalf of the Scottish Parliamentary Corporate Body.

Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by
RR Donnelley.

Tuesday 26 October 2010

CONTENTS

	Col.
DRAFT BUDGET SCRUTINY 2011-12	2117
DECISION ON TAKING BUSINESS IN PRIVATE	2117
INDEPENDENT BUDGET REVIEW	2118

EQUAL OPPORTUNITIES COMMITTEE

18th Meeting 2010, Session 3

CONVENER

*Margaret Mitchell (Central Scotland) (Con)

DEPUTY CONVENER

*Marlyn Glen (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Malcolm Chisholm (Edinburgh North and Leith) (Lab)

*Bill Kidd (Glasgow) (SNP)

*Christina McKelvie (Central Scotland) (SNP)

*Stuart McMillan (West of Scotland) (SNP)

*Hugh O'Donnell (Central Scotland) (LD)

Elaine Smith (Coatbridge and Chryston) (Lab)

COMMITTEE SUBSTITUTES

Rhoda Grant (Highlands and Islands) (Lab)

Tricia Marwick (Central Fife) (SNP)

Mary Scanlon (Highlands and Islands) (Con)

Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Morag Gillespie (Glasgow Caledonian University)

Peter Hunter (Unison Scotland)

Dr Marsha Scott (West Lothian Council)

CLERK TO THE COMMITTEE

David McLaren

LOCATION

Committee Room 2

Scottish Parliament

Equal Opportunities Committee

Tuesday 26 October 2010

[The Convener *opened the meeting at 10:05*]

Draft Budget Scrutiny 2011-12

The Convener (Margaret Mitchell): Good morning everyone, and welcome to the 18th meeting in 2010 of the Equal Opportunities Committee. I remind all those present, including members, that mobile phones and BlackBerrys should be switched off completely as they interfere with the sound system even if they are switched to silent. We have received apologies from Elaine Smith, and Bill Kidd may be a little late—his train has been delayed, but we hope to see him in the course of the meeting.

The first item on the agenda is to seek the committee's agreement to take in private at future meetings discussions on our approach to the Scottish Government's draft budget for 2011-12 and consideration of our draft report. The committee is also asked to delegate to me responsibility for arranging for the Scottish Parliamentary Corporate Body to pay, under rule 12.4.3, any witness expenses arising from the evidence sessions. Are members content with that?

Members *indicated agreement.*

Decision on Taking Business in Private

10:06

The Convener: Item 2 is a decision on taking business in private. It refers to item 4, which is a discussion on the committee's approach to stage 1 of the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Bill. Do members agree to take that in private?

Members *indicated agreement.*

Independent Budget Review

10:06

The Convener: The third item on the agenda is an evidence session on the independent budget review. The committee agreed previously to consider the report of the review panel in order to inform its consideration of the Scottish Government's draft budget 2011-12, which is due to be published in November.

It is my pleasure to welcome Dr Marsha Scott, principal officer in health, policy and planning, West Lothian Council; Peter Hunter, regional organiser for Unison Scotland; and Morag Gillespie, research fellow at the Scottish poverty information unit, Glasgow Caledonian University. You are all very welcome. I also welcome Ailsa McKay, the committee's budget adviser.

What does the panel consider to be the key equality issues arising from the United Kingdom spending review and the implications for the demand for the delivery of devolved services?

Who would like to start with that little question?

Peter Hunter (Unison Scotland): In order to buy my colleagues a little time, I will start.

With respect, it is very difficult to identify the key measures when, in our view, we are facing possibly the largest single intentionally discriminatory package of measures in the history of British politics. That may sound like a bold statement, but first we can eliminate some previous discriminatory decisions with a huge impact on the basis that they were unknowing—the state of awareness of equality measures was such that, although the actions taken by previous Governments may have been discriminatory, they were part of social norms that are now outdated.

In the 21st century, equality duties are fairly well embedded. National state organisations and non-governmental organisations have greatly enhanced awareness of how to identify disparate discriminatory impact. Government—the UK Government, the Scottish Government, local government, health boards and associated bodies—knows that the measures that are proposed will have a widespread discriminatory impact across a number of groups, in a variety of different ways, to the profound disadvantage of vulnerable groups. That is the overriding key feature; the issue is how we address that.

Our evidence from the state is that the knowledge and experience of how to impact assess and how to respond to known adverse impact are somewhat worrying. If we consider the debate on the Institute for Fiscal Studies observations on the comprehensive spending

review and the budget, we see the Government's refusal to accept and its determination to criticise the IFS methodology rather than a decision to accept the observations and then to have a debate on how to justify the adverse impact on vulnerable groups or, importantly, how to mitigate any impact if it cannot be removed altogether—I will return to that key point throughout this morning's session.

If the Government finds itself to the right of the IFS, and is criticising it as a group of methodologically weak people who are issuing partial analysis of the statistics, it is in a lonely and fairly politically extreme place. The IFS is one of the most outstandingly independent and commonly respected lobby and research organisations—rather, it is not a lobby organisation, but a commentary and research organisation. The group is a thoroughly well-respected establishment.

For the Government to refuse to accept the observations of the IFS on adverse impact—far less to move beyond the matter of adverse impact and have a discussion about how adverse impacts can be remedied—gives us a fundamental problem at the heart of the machine.

The Convener: You have covered what you consider to be the key issue. If we are trying to consider the matter in a way that we hope will achieve the best outcome and address the various issues arising from the budget, is it helpful to talk about measures being “intentionally discriminatory”? If something is discriminatory, that is what we want to consider as we try to resolve the issues. Does it help the tone of the discussion or the whole process to use the sort of words that you have introduced?

Peter Hunter: When I say “intentionally”, I mean that if one is in a state of not knowing and acts in a way that is discriminatory, ignorance is potentially some form of defence. In so far as statistics have been made available to outside observers, it seems that people have rapidly identified the fact that there will be an adverse impact on vulnerable groups.

Rather than doing what is lawful, which is to accept that observation and then to find ways to mitigate the damage, the UK Government has refused to accept the observation that there is disparate adverse impact, and it has indicated its intention to proceed with the cuts. If people knowingly proceed with something, having been warned that it will damage vulnerable groups, I would say that that is intentional. There is a moral and ethical difference between people who unintentionally cause harm and people who intentionally cause harm. It would be disingenuous of me not to name and identify that. That is part of the process, and it cannot be overlooked.

The Convener: Politicians generally come into politics to do good and do not have preconceived objectives to do down any particular group of people. Could it be a matter not so much of ignoring the legislation as not applying it when it should be applied, or not taking cognisance of the sort of discrimination that might have the sort of adverse effects that you are referring to?

As we have this debate, let us start from a premise of making progress, rather than having a quick pop at the Administration of the day or any Administration, whether it is the Scottish Government or the UK Government.

Peter Hunter: I would be happy to have my contribution described as something other than “a pop” at somebody. I make the observation strictly in terms of procedure. At the moment there is a political impasse about acknowledging adverse impact. If it is not acknowledged that there is adverse impact, and if people defend the line that there is none, measures do not then have to be considered either to eliminate that adverse impact, to mitigate it or—if the impact continues—to justify it in objective terms. It might be put in such a way as, “Although we regret doing what we have to do, we think that, on balance, it is a proportionate thing to do.”

Stepping out of politics and moving into questions of legal procedure, if we get stuck in a debate about whether there is an adverse impact on vulnerable groups, we will never go through the gender equality and race equality duties and the various impact assessment processes, as the people who have the power in the decision-making process do not acknowledge the adverse impact in the first place.

10:15

If, however, we were to work on the premise that there might be recognition in Scotland that there will be adverse impact, so as to get round the impasse, the next stage would be to develop a culture in political decision-making and budget-setting processes whereby budget holders and budget setters recognise that, even if unpopular and difficult decisions have to be made, they must be able to justify the harm that is caused. There must also be a dialogue with communities about those who are, if you like, escaping the disadvantage and those who are caught by it, with a view to either eliminating the disadvantage or, if it cannot be eliminated, reducing it. A third option would be to mitigate the damage.

My colleague from West Lothian Council, Marsha Scott, has a very good example in respect of the introduction of other measures, which may be lower cost, that are unrelated to the service that is being removed but which would mitigate the

harm that is being done. For example, with regard to welfare reform, the Government believes that, although benefits are being removed from people with capacity problems, improved access to the labour market will mitigate the loss of having the benefits removed. That would be the case if jobs were actually available so that people could enter the labour market. If that were true, that would be a good example of mitigation. That principle can be applied across the board and, specifically, within Scotland and within local government budget setting.

The Convener: You are getting to the key point, which is that the process must be examined. Those comments are helpful. If we continue to tease out the issues and find out where things have fallen down, we will make good progress.

Dr Marsha Scott (West Lothian Council): My desire is to support Peter Hunter, given that he has taken the first hit. It comes back to your question. If I had to identify a key issue about how we could sensibly and most creatively respond to the challenges of our budgets and the cutbacks that we face, it would be to ensure that we have a robust process for figuring out the likely impact.

The Fawcett Society's comment in bringing the court case about the failure to do a gender impact assessment on the budget process down south is germane to what we need to be looking at. It pointed out that the gender budget assessment showed that between 70 and 75 per cent of the impact of the cuts would devolve to women. In its press release, the Fawcett Society asked why, if the Government thinks that women should be carrying the burdens of the recession, it does not say so.

For me, it is not about intentional actions or malicious people; it is about the reality. Impact assessment—including a gendered impact assessment, as far as I am concerned—is the most important process. If we are clear about the impact of our proposals, our decisions are transparent and, whether we call them intentional or not, the reality is that we have to stand by what we do. If we are not holding people's feet to the fire on robust impact assessment, the rest of the process is flawed.

The Convener: That was certainly a stark statistic that was revealed and it cannot be ignored in any way, shape or form.

Morag Gillespie (Glasgow Caledonian University): Despite the scale of the cuts that will be looked at in budgets and the pressure that existing services will come under to be reviewed, reformed, dismantled or whatever, the additional layer that needs to be considered is about having it in mind to undertake preventive decision making. One of the themes that I will come back to is that

the UK Government's welfare changes have consequences that will affect what is delivered, how things are done and the decisions that are made in Scotland; housing is top of my list in that regard. The welfare changes will have huge consequences, and I want to talk about that today.

Other external factors will add to the pressure on services. For example, more and more people—the elderly and working-age people with care needs—will need care services, and those needs will not stand still but will increase.

There is a list of services that we could prioritise, but one theme for me is prevention—preventing homelessness and the cycle of poverty and problems that are associated with that, which can be addressed to some extent by a focus on child care and early years support services. Those services may not be statutory, but they are extremely important, especially if the budget pressures are ever to improve.

It is crystal clear to me from the work of people such as Richard Wilkinson, Kate Pickett, Danny Dorling and a host of others that poverty is expensive, not just for the people who are in poverty but for the whole of our society and the public services that try to pick up the pieces. Unless we start to get smarter and do things differently, so that we reduce the damage and do not contribute to it in the way in which public services are run, our problems will get worse, the headaches will be greater and you guys will be scratching your heads more and more over the years.

The Convener: So there needs to be much more analysis of the consequences of any cut.

Morag Gillespie: As Marsha Scott said, we must think through the consequences—not just the immediate consequences, but the broader consequences—of doing something and we must consider who is affected most.

The Convener: That is helpful in setting the scene for the discussion of how we should move forward.

Stuart McMillan (West of Scotland) (SNP): Given what you have just said, are you suggesting that there should be a root-and-branch examination of public services in Scotland, to ensure that in future they are delivered in a more robust fashion, so that poverty is reduced and eradicated?

Morag Gillespie: The issue needs to be addressed at different levels. I do not think that there is a single solution. One factor that is important is consultation with and involvement of the people who use services, because there is always a possibility that they have useful contributions to make to delivering services more

effectively, more efficiently and, perhaps, more cheaply. Unless we involve the people who are the recipients of services, we will never know.

We cannot dictate the outcome of the process, as it may be different in different areas. I have a far from complete knowledge of what health and local government services do across the board, but I am aware that people on the ground have very different experiences of those services. There is a lot of good work and innovation, but there is a lot of really bad, lazy decision making. The situation is not homogeneous.

It is crucial that the Government finds a framework that enables it to know that people are doing the best that they can in local government, health, transport and housing, without having to micromanage every bit of policy. I do not have such a solution written down for you today—it is for you to find it. However, you must think about the different dimensions that exist. There is no strict five-year plan that can be implemented, because deprivation in rural areas, urban areas, multiply deprived areas and areas with dispersed deprivation needs different responses.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): We have already introduced the issue that I want to raise. Morag Gillespie referred to several priorities and Marsha Scott highlighted the overriding importance of equality impact assessment of the budget. Notwithstanding that, will you identify one issue from an equalities perspective that the committee should prioritise throughout the budget scrutiny process and indicate why you consider that to be the number 1 priority?

Peter Hunter: I would say care services—particularly home care or residential care and independent living services for either disabled adults or elderly service users. There is already evidence, which you can look at directly, of the adverse impact of previous efficiency drives on the quality of care. In our view, they have infringed on both the equality rights and the human rights of the care service recipients.

In addition to co-ordinating our equal pay work in Scotland, I lead our negotiating team in response to the outsourcing of services in Edinburgh. Within that work, I attended a deputation from service users in response to the re-tendering of care and support services in Edinburgh. You may know already that a proposal to competitively tender those care packages in order to drive down costs caused an uproar and considerable public protest in Edinburgh, with the result that the decision was partially suspended.

I will give a specific example of the kind of problems that I think you need to be able to identify. Because the service costs were driven

down, so was the quality of the service that was received by, in this case, disabled adults looking to live independently with support from the local authority. The mother of one individual who was not in a position to give evidence to the committee himself appeared and described the situation. Their existing support service had been undercut by a rival bidder in the tendering process, which had been decided on a price basis. In my view, the tendering process had been fixed and the scores were adjusted to increase the quality—notionally—of the low-cost bids, and the quality scores of the high-cost bids were reduced to make them seem comparatively less advantageous. All the existing support providers would have lost the contracts.

I can mention the evidence that the woman gave concerning her son only because she gave it in public, and I will not provide sufficient details to enable her to be identified. Her son had the same care and support worker for a considerable time—in excess of 10 years. For most of that time, that worker was one of only two people with whom her son had daily social contact because of part of his medical condition, which presented challenges in forming and maintaining relationships with people. Because the care package had been undercut—in my view, unlawfully—in the drive to reduce the costs of care and because the new provider refused, and was permitted to refuse, to observe the Transfer of Undertakings (Protection of Employment) Regulations, the worker did not move over with the package. The identity of the worker changed and, as an efficiency measure, the new provider could not guarantee that the identity of the care worker would be the same from one week to another. People would be allocated to the contract according to the provider's business needs. Consequently, the person was going to lose 50 per cent of his social contact because the one person with whom he had formed a social and employer-employee relationship would no longer be engaged to provide the service.

In my view, that was clearly an act of discrimination against a disabled person and was a breach of the Disability Discrimination Act 1995 and the disability equality duty. It also eroded the human rights of the person who received the service. The Human Rights Act 1998 places an obligation on local authorities and the Parliament to respect the private family lives of service users and to enable them to live autonomous, respected lives in which they have access to services on, as far as possible, the same basis as other service users, free from cruel and inhumane or degrading treatment.

10:30

The Edinburgh case illustrates a problem that will be rolled out throughout the country as the

cost of care packages is driven down. For example, home care work will be privatised. The frequency of carers' visits, the length of time that they spend in service users' houses and the range of tasks and services that they provide will be reduced. In certain cases, the service will come up against the local authority's legal obligations and push the authority into illegality, as happened in the case that I mentioned. Authorities will be in breach of not just the discrimination law obligations that cover the services, but human rights obligations.

I give another example. There is a growing phenomenon of incontinent elderly and disabled adults spending their whole day in adult nappies. The frequency with which such people have assistance to change dressings becomes a major issue as service costs are driven down and the frequency and duration of contact are reduced. Service users will spend longer and longer living in their own excrement, as a result of reductions in the quality of service that they receive. There is an obvious parallel, which we are researching, between the experience of such care service users and that of prisoners in slopping-out cases. The legal methodology is almost exactly the same.

Authorities that in their tendering processes do not properly identify adverse impacts on service users and thereby drive their clients into degrading, cruel or inhumane living conditions will create for themselves not just a massive ethical and moral problem, but a legal problem, which we will encourage people to address, if necessary through legal action under discrimination and human rights legislation. If our analysis of the situation is correct, it might well be that every penny that is recovered from service budgets in the short term by infringing the equality and human rights entitlements of service users will be lost in the longer term if it is recovered by the service user in compensation.

What I have described is already an identifiable problem, on which there is research and evidence. Service users can tell you that they are experiencing degrading conditions as a result of service cuts. As Morag Gillespie said, a growing number of people need care services. Care services represent a major component of the public budget and many authorities have said that they will look for efficiencies in the area. The area is a pertinent one for the committee to consider in the context of managing costs while protecting the equality and human rights of individuals. The committee might spend time looking at more specific evidence than I can provide today.

Hugh O'Donnell (Central Scotland) (LD): May I come in on the point about service users?

The Convener: Does Malcolm Chisholm also want to comment?

Malcolm Chisholm: My question was to all three witnesses, so perhaps we should hear from them all before we comment.

The Convener: Okay. Mr Hunter gave a lengthy response, but he provided a very good example. Does Morag Gillespie have an example?

Morag Gillespie: It is a difficult thing to choose. With prevention in mind, I would stick with child care and early years services and the affordability of school for poorer families as a whole clump of services that are absolutely critical. Although the coming benefits changes might not increase the numbers of people living in poverty—I suspect that they will, but who knows, they might not—they will increase the numbers of people who are experiencing deeper poverty, and the depth of the poverty. Given all the evidence that shows how to improve the life chances of children so that they do not have to face the cycle of poverty, deprivation and poor health—that intergenerational poverty cycle—services that focus on delivering the best that they can during the early years are really important. It is essential not to lose sight of that.

In addition to lots of good work that is being developed and which needs to be expanded, it is crucial that all possible barriers be removed from poor parents to make children's early years and early schooling experience the best that they can be. There are some simple things that can be done that the Child Poverty Action Group and others have commented on on other occasions. They include free school meals—or affordable school meals, if it is not possible for them to be free, although their being free would be preferable because the greatest benefit would come from that.

Other suggestions are to do with the affordability of school uniforms. Nowadays, it should not be the case that schools impose standards that poor families cannot meet in order for their children to attend school without being stigmatised. It is not just that such families lack money: the stigma, potential bullying and all the stuff that goes with stigma affect those children.

What can be done to give children in poorer communities and families better access to the wider school activities that children of better-off families take for granted because they can pay for them? What can be done for the lone parent who relies on an after-school club for their three kids while she is working for the last couple of hours in the evening? When it closes, the better-off mum can pay for an alternative, but that lone parent might well have to give up her job. To my mind, it does not matter too much whether that service is provided by the voluntary sector, which was once supported by the local authority but has had funding removed, or delivered by the local

authority, because the possible outcome is that that lone parent will have to give up work and, perversely, as well as being poorer, will be a much bigger drain on services. That whole area is important.

Pete Hunter is right that there are not many jobs going around just now, but the people who have them and who are supporting families need all the help that they can get to keep them. A growing number of people are poor even when they are working. Those support services are not marginal. They are not frills. They might not be statutory requirements that must be provided legally, but they are absolutely essential. To me, those things have to be thought through carefully before they are removed or charged for because the fact that someone is working does not mean that they are able to pay.

Dr Scott: I am tempted to agree and disagree with pretty much everything that has been said, which would be rather a lengthy process, so I will try to focus. The request was to prioritise a single issue, but of course I will not do that. Instead, I will identify a couple of priority areas.

To go back to an earlier question about our work on poverty, if there were a single standard by which I would judge the wisdom of a measure, it would be that measure's impact on the wealth gap in our communities. From the Wilkinson research, we are all pretty clear that such disparity has harmful impacts on our community. Any measure that we take that increases inequalities, as they are intelligently understood, needs to be questioned. Can we get through this without increasing inequalities? I wish that I were confident that we could, but as Peter Hunter would say, if we do it wisely we can mitigate the worst impacts.

The other issue that we might want to look at is that we should refrain from always focusing on service cuts, as important as they are, particularly in my context of working in a local authority where we are at the coalface of service cuts.

We also need to consider what our investment plan is. Some flawed assumptions drive the decision making; for instance, there is the assumption that investment in infrastructure will grow the economy, save jobs and produce jobs. However, there is a lot of evidence at the macroeconomic level that investing in the care sector and so on—particularly in sectors in which a higher proportion of women are likely to work—will provide us with more jobs, more resilience to service cuts and more spend in local communities. We need to be rigorous at considering our investment—perhaps even more rigorous than in considering our service cuts.

We have lots of information—although we do not always pay attention to it—about the impact of our service cuts. We are sort of blindly stumbling forward on the notion that investing our money in large-scale construction and similar projects will give us the biggest bang for our buck. There is a great deal of evidence from numerous countries and numerous settings that that is a flawed assumption. I flag that up as something to keep in mind.

The other thing to keep in mind is gender, which keeps coming up in our work at local authority level. We are working on a project to reform our community planning structure into what we call our life stages project. It is about considering outcomes in the community throughout the life stages. The overarching thinking behind that is that if we use life stages to focus on cross-cutting issues and on targeting our resources to the people who are most in need, we might be able to make the kinds of changes in early intervention that pay off later in the developmental stages. For example, the outcome that we are working towards for the early years life stage is that every child will come to school aged 5 having met their relevant developmental milestones. We already know how to do that. It is not rocket science. However, we need also to address substance misuse, violence against women and lack of access to decent jobs and housing. We can do that in our communities, but we need to redirect some of our resources for that purpose.

It comes back to the equality gap and investing in communities where that will create jobs for people who need them. I will probably feel compelled to tell you more about the equality impact assessment of our cuts in West Lothian to illustrate some of my points. Interestingly, a big issue that arose from more than 100 equality impact assessments on service cuts in West Lothian was that we need to be really careful about public transport. If we centralise services, the most vulnerable people in our communities will not be able to access them unless we invest—

The Convener: We have more specific questions. You have given us a flavour of your main issues.

Dr Scott: They are public transport and the voluntary sector, to back up what Peter Hunter was saying.

The Convener: Malcolm, is there anything you want to follow up on?

Malcolm Chisholm: No. That was extremely helpful, especially since I stopped Hugh O'Donnell coming in.

Hugh O'Donnell: No problem. Dr Scott has dealt with the points that I was going to raise. Your crystal ball is working well.

The Convener: Are you happy with that?

Hugh O'Donnell: I am.

The Convener: Peter Hunter, is your scoring process key to ensuring that there is a wee bit more transparency in work that is done at that stage? Your example seems to suggest that we are where we do not want to be, which is that we are leaving individuals to challenge poor practice as opposed to getting to it at a much earlier stage. Where is the gap in the process? Is it in not being robust enough at challenging the so-called scoring? How do you manipulate who does and does not get the contract, for a good or bad reason?

10:45

Peter Hunter: I say in all seriousness that the Edinburgh care and support contract would be a very useful case study for all public bodies on precisely how not to deliver efficiencies. It should be examined independently and the conclusions and recommendations should be widely publicised to public bodies. There was a continuing problem. The council's initial reaction in response to protests by the public was the classic refrain that we are hearing from public authorities at the moment: "This is very difficult, but we have to do it. This will hurt us as much as it will hurt you. We're all in this together. Yo ho ho." It was only when the public protest got to the point where a noble and splendidly independent councillor in Edinburgh decided that he could no longer stomach it that the whole thing collapsed and there was an external review that identified the problems, which included failure properly to consult communities, failure to comply with transfer of undertakings regulations, failure to deal with equalities issues, failure to observe human rights issues, and irregularities in the scoring system.

On equal pay, one of the problems that we have come across is the failure of people to take remedial action even when problems are identified. We had an excellent inquiry by the Local Government and Communities Committee into equal pay in Scotland, which I think was the fourth intervention by committees of the Scottish Parliament into the equal pay debacle in Scotland, and still Scottish local authorities have not met the recommendations from all those reports.

Taking those things together, you have a refusal to engage in a process when people are criticised, a tendency to adopt a bunker mentality and to deny that there is a problem when the problems are staring them in the face, and a determination to persevere regardless, thereby making the problem worse. Even when you have dedicated campaigners, noble councillors or chief officials who decide to get to the bottom of an issue and

identify recommendations to improve future practice, those recommendations are not observed either within the authority or more widely. As long as you have that inept quality of public service management, things will not change.

All the examples from the recent past illustrate that the cuts that are going to be made will be as bad as they possibly can be. The full scale of them might be unavoidable, but there will be no mitigation and no assessment of the proportionality of one reduced service as against another. The cuts will be worse than they need have been had a proper approach been taken.

There is a great opportunity for the committee to explore two or three case studies—I think that someone asked which case studies we should explore—extract the lessons that need to be learnt and issue a short report saying that there are some simple steps that really need to be observed during the budget-setting process. We cannot avoid all the harm that is coming, but we can mitigate it and there are ways of identifying who are the most vulnerable and ensuring that they do not experience the lion's share of the pain during what will be a painful process for many people. You have a fantastic opportunity to make a very practical contribution to that process.

Marlyn Glen (North East Scotland) (Lab): I like the idea of our looking at case studies. That is a helpful suggestion.

My question is for Marsha Scott. I want to give you an opportunity to expand on what you said about the life stages project and public transport. Can you give any examples of how an overall priority to deliver on efficiency savings has transformed the nature of public service delivery?

Dr Scott: From a local authority perspective—I am speaking only as someone who manages a portfolio that includes inequalities, drugs and alcohol, and violence against women—efficiency savings that are enforced without an opportunity to reinvest are really just cuts, in my world. "Assumption" seems to be my buzz word today, but the assumption that everybody in the public sector is equally inefficient and should therefore deliver equal efficiency savings is a failure to be accountable for the outcomes that people are not delivering and the outcomes that we are not willing to pay for any more.

At the end of the day, in terms of single outcome agreements, many of us will be and are facing a lot less money. The reality is that we need to ask how we can deliver the most outcomes for the most important people with that reduced money. Efficiency savings are about management. We need to create an environment in which creative and committed-to-principle managers are trying to

make things work, and then we will have efficient services and efficient planning.

I can give you a good example of an efficiency. Back in the days when we were allowed to reinvest from efficiency savings, we looked at using investment in telecare and internet services related to incapacity to provide better services, that were less costly over the piece, to people who were housebound or in a variety of other circumstances that made them expensive to serve. They were happier and we were happier, but that required up-front investment. In the current environment, there is no up-front investment and efficiencies are really just cuts. From my perspective, it is better for us to try to figure out how we can support good management than it is to impose efficiencies, unless we are really clear about where there is inefficiency and about its impact.

Stuart McMillan: In recent months, I have spoken to people who work in different departments of local authorities in the West of Scotland, and one thing that they have consistently said is that efficiencies can still be made in those departments. They also said that they are convinced that efficiencies can be made in other departments in their local authorities, and they have given me examples of what they regard as waste. Ultimately, it is the public pound that is being wasted. You said that efficiency savings are actually cuts, but other people in other authorities say that authorities could be more efficient. How do you square that circle?

Dr Scott: I suppose that my logical response would be to say, "Maybe I just work in a local council that's already efficient", but I have to say that there are parts of our operation that I would change, given the opportunity.

In the current environment, I do not believe that there is a large public sector body that is recruiting. I certainly know from my work at NHS Lothian and West Lothian Council that there is no recruitment, that temporary contracts are not being extended, and that the situation with flexible working is scary. Everybody is trying to hold on to the resource that they already have. In that environment, efficiencies come where it is less risky to invest. For instance, which jobs are the most precarious? They are those that are held by women and those that are low paid. Not all low-paid jobs are held by women, but that is mostly the case. This is where the efficiencies are coming at this point. It is the only place where across-the-board strategic decision making—albeit that it is perhaps less than informed—will deliver immediate cash savings. I am not—

The Convener: Will you say a little more on efficiency?

Dr Scott: The assumption is that waste is built into the system. For instance, we did a process improvement exercise on our alcohol and drug services in response to the health improvement, efficiency, access and treatment targets. It was a good process improvement in that we found that we were doing things that were wasteful. That said, in the main, they were wasteful not of money but of time. We addressed the waste of time by buying laptops for our people who are out there doing assessments. We cut our waiting list in half, but we did not save money. There is waste, but the way to address it is not to assume that everybody has an equal amount of waste. I have examples in which waste was identified and people stopped doing what they had been doing previously. However, in terms of the scale of cuts that we are looking at, efficiency savings are a blip.

Stuart McMillan: I have one more question, convener.

The Convener: Very quickly.

Stuart McMillan: I also spoke to someone last week from the voluntary sector to ask for his take on the situation. He was critical of all politicians of all parties. He said, "All of you have a responsibility. You all have had that responsibility, certainly since the Scottish Parliament came back into being. If something wasn't working, you would throw more money at it." He cited the example of the massive investment in the health service over the term of the Scottish Parliament. His take was that the NHS is not delivering services that help everyone in Scotland. He suggested that, instead of throwing money at the health service time and time again, we should have more scrutiny and further service reorganisation. He said that that would ensure that the public pound was spent more efficiently. Do you agree with his comments?

Dr Scott: I wish that I worked in a place where they threw money at things. That is not my experience.

Over the past few years, opportunities have arisen as a result of investment in services such as alcohol services. I am comfortable in saying that the total spend on substance misuse in West Lothian is not very different from the spend anywhere else in the country. Five years ago when I came into post, about two thirds of our total budget was spent on drugs, one third was spent on alcohol and a tiny percentage was spent on tobacco. We mapped the cost of the harm that those three substances cause and found that tobacco was the biggest driver of health inequalities in Scotland. As we all know, alcohol underpins an enormous amount of harm; it is costly in human and pound terms. Drug misuse is a difficult problem that impacts on 2 to 3 per cent of our population. We found that the spend was

completely skewed towards drug services, and was being driven by criminal justice or things that were visibly political and not by a true assessment of what people needed or what needed to be done.

11:00

By assessing the impact, we can say where investment can be shifted. We have done that, so we now have much more alcohol money than we had before. It is still not enough, but we are making progress on developing approaches at the community level that get people into a service and get them help sooner.

Without that, all the statutory services that we are required to provide would continue to spiral out of control. It is very early to say that we have cracked the alcohol problem. If that is one of the budgets that is cut, I do not know what will happen. At the moment, for the most part, I do not think that the increased spend has been in places in which it was not needed.

Morag Gillespie: We are dealing with a complex process. As someone on the outside looking in as opposed to being involved in it, my difficulty is that—I do not want to be too simplistic—targets drive behaviour but not necessarily in the way that was intended. Targets that relate to efficiency savings may have lots of unintended consequences that could cost more in the long run. The easiest example to use relates to local authorities and health, and it is not even within a service. I live in an area in which the local authority ran out of salt last year during all the bad weather. No pavements were gritted and we had weeks and weeks of frost, so that old ladies fell and broke their hips and hospital admissions went up hugely. The local authority's saving became the NHS's cost. It was a tiny saving for a huge cost.

If the only driver is efficiency savings, and we do not think through the consequences, the cost can be greater. The point is not only that the service is perhaps not as great as it was, but that it costs more money. We need to take the blinkers off a wee bit. It is important that people in economic development departments, or similar departments, do not pursue efficiency savings to get their performance-related pay while leaving social services to face the consequences of their decisions, thereby costing more public funds in the long run.

There is a need to be much less mechanistic and to introduce a bit of qualitative consideration. Pete Hunter's story about Edinburgh highlights the fact that the issue is not just the numbers or time, but the quality of provision, which must be of an acceptable standard. Surely in Scotland we are about ensuring not that we deliver the least that

we can get away with but that we provide quality services.

We cannot consider the two issues in isolation. It is not entirely helpful to separate so-called efficiency savings from what happens on the ground as a consequence of them.

Peter Hunter: I will say something on the NHS. I do not know how much specific and technical knowledge of the voluntary sector the person Stuart McMillan spoke to had, but people tend to forget that, even if we ring fence NHS spending, NHS inflationary costs are nearly double the notional inflationary allowance that the Treasury makes. Drug prices and other inevitable costs spiral out of the control of health boards regardless of how efficient they are. There is also an issue with growing demand from particular groups. We talked about people with addictions, but there is also a growing elderly population with care needs.

Another factor is our continued failure to address the numbers of people who live in poverty and all the adverse health consequences of that. It is regrettable, to say the least, that we have not used the dividend in the relatively affluent times over the past 10 years to reduce the numbers of people in poverty and therefore potentially reduce the number of people who rely on public services to deal with the consequences of poverty. The result is that they are now vulnerable to the cuts.

At the risk of going off message—I will just check that nobody else from Unison is in the room—I note that the largest element of the wage bill in public services is labour costs. There are inefficiencies within Scottish public services, and they are to do with the structure of public services. I refer to the sustaining of the current number of local authorities, many corporate services functions of which duplicate very similar functions in health boards and other public bodies. Reading between the lines of what the Cabinet Secretary for Finance and Sustainable Growth has been saying, I understand that he is disappointed by the lack of progress towards the strategic sharing of services, both in terms of revenue costs and through partnerships for strategic investment in capital projects that would be for the benefit and the more efficient delivery of public services.

I note Marsha Scott's observation that at a time of austerity, everybody grabs hold of what they have got. We have a problem at the moment with the senior managers of public services being determined to hold on to their own territories, contrary to the interests of the public in general and of taxpayers more specifically, as well as those of the Parliament. It might not be possible to have centrally driven grand plans for the reorganisation of the public sector that will deliver the efficiencies that we need within the appropriate

timescales, but there might be measures that we can take. For example, Scottish Government financial support could be structured in such a way that it is in the interests of local authorities to maintain a council tax freeze. I happen to think that that is regressive, but that is an example of how the finance policy of the Scottish Government can be used to influence the behaviour of public service organisations.

Similar incentives, or mild coercion, could be used to ensure that public bodies drop their defences to sharing services and to ensure closer working among public service organisations to release efficiencies. In the relatively small area covering Fife, Clackmannanshire, Stirling and Falkirk, some large organisations could work more closely, effectively and efficiently in partnership. The Lothians and Edinburgh are another example. What barriers are stopping the outlying Lothian authorities and the City of Edinburgh Council from coming together to realign their services, possibly with Lothian NHS Board and other bodies, in order to deliver more effective and efficient services in a way that also saves money in these difficult times? That serious question must be asked. There are far greater efficiencies to be made than those that have been batted around with regard to general waste.

The committee could start that debate. Why has the sharing of services failed? Who is responsible for the barriers? How can they be removed?

The Convener: That was very helpful, thank you.

I return to the question of equality impact assessments, which we have considered from the beginning of the discussion. Process is all, and key to that is the equality impact assessment. I ask Marsha Scott, in particular, to comment on the application and value of EqlAs in general, and perhaps to give some specific examples of how EqlAs have informed and supported the approach that has been taken in her local authority to provide efficient and effective services.

Dr Scott: I would be delighted to—I am a bit of an equality impact assessment geek. Although I speak repeatedly—and ad nauseam, I am sure—to anybody who will listen about the importance of doing a good impact assessment, my sense is that people are finally getting the clue that carrying them out is a statutory requirement.

However, I am less than optimistic about the quality of most of them and about the process of doing them. Equality impact assessments only really deliver on equality if they are done prior to a policy, project or service being finalised, such that its design and implementation can be altered in line with the findings of the impact assessment.

Although we have made great strides through the contingency plan, my experience—locally, at national level and at UK level—is that impact assessments are done after the fact or as an apology, rather than as actual assessments. I underscore the need for them to be done as part of the planning process. If they are done only as a consequence of somebody suddenly realising that they must have one, that serves only to demean and diminish the potential for the process, and it creates inefficient responses when it comes to mitigating what never needed to happen in the first place.

With that proviso, I say that the more we struggle hard in West Lothian to do good impact assessments, the more we have good results from them and the better we get at them. The first and most important attribute of a good impact assessment is good data and good evidence. The failure in most impact assessments is that people think that they can undertake them without understanding who uses their services and—perhaps even more important—who does not but should use their services. In that sense, impact assessments are quality assurance work for our designs.

I will give a little background. In West Lothian, we did an impact assessment of the proposed cutting of our budget by £45 million over three years. That was called the tough choices consultation. As I said, it involved well over 100 impact assessments in different departments of plans for how to cut the money. I wish that I could tell the committee that every assessment was robust, that even the robust ones were all taken on board strategically and that plans were magically changed, but that was not so.

However, the reality is that things are much better as a result. For example, as we consulted people who received and delivered services more, it became really clear that some key supports needed to be kept in place. We asked women who received services to deal with violence against women what was key to them and what they most needed. What they said reflected a lot of evidence from many places. They said that they needed three basic things—a decent house, a decent job and affordable child care, so that they could go to their job. With our impact assessment, part of what we needed to do was to figure out what we were doing on the pay gap, occupational segregation and housing—to work out how to mitigate the impacts of the complicated housing benefit environment. The approach involves looking at people as whole people rather than as users of particular services. If it is done well, impact assessment makes us take that approach.

The impact assessments identified the cross-cutting services that we needed to protect and

perhaps even to invest in. As I said, public transport was a key service that emerged. If we are to mitigate the impact of delivering services more cheaply—but perhaps not better—we must pay attention to keeping people as mobile as possible and we must invest in, rather than salami slice, our public transport.

11:15

Another important issue that came up was to do with voluntary sector services. The low-hanging fruit in public sector budgets is probably the money that we put out to the voluntary sector, but in general—I could give you a footnote on that—voluntary sector services are the ones that will provide a cushion and resiliency for the folks who will be impacted by other cuts that are being made. It is important that we try to protect voluntary sector services, particularly those that have an impact in the key cross-cutting areas that we are considering—violence against women, alcohol, drugs, parenting support and early intervention.

I can tell you about a big, interesting and surprising impact of an equality impact assessment that we did in relation to a service that had been privatised—I am not at liberty to tell you which service, but it was to do with employability of a target population. The impact assessment showed that we could deliver the service better in-house. Contrary to claims that savings will be brought about by the privatisation of services, the impact assessment concluded that bringing the contract in-house rather than just cutting it

“resulted in a 150% increase in volume of clients”

who were seen.

Some of that was to do with integration of services—that takes us back to our earlier discussion. In West Lothian Council, social and health services are integrated in our community health and care partnership and we are beginning to experience real bonuses. In such a setting, when a service is brought or kept in-house, people are better joined up to other services than they would be if the service was privatised.

We must protect the voluntary sector and we must be clear about using impact assessments to tell us who will be affected. We must consider impacts in relation to where a service is placed as well as impacts on the people who get the service.

The Convener: I am conscious that we are well over an hour into the meeting and still only on question 5, but it is important that we spend a lot of time teasing out the issues.

In relation to the statutory duty to perform equality impact assessments, we have said on the record that the nub of the matter is that an

assessment should not be a tick-box exercise but must form part of the decision-making process before a final decision is taken. The Fawcett Society challenged the budget process because that did not happen. We must not get into situations such as Peter Hunter described, in which we end up with an unacceptable service and the onus is on service users to complain and challenge poor practice. That makes no sense, on an economic, emotional or human decency level.

Dr Scott: The role of a body such as the Equality and Human Rights Commission in scrutinising the equality impact assessment process that we carry out as part of our public sector duties is key. If I, as an equality officer for my council, could not say, “If we don’t do this, somebody will look at it and yell at us and we’ll be in the papers,” we would not be anywhere near where we are. I will not prescribe whether the scrutiny body should be the EHRC or the Scottish Government’s equality unit, but we will never realise the potential from impact assessments if there is a failure to scrutinise.

The Convener: That is a fair point. Scrutiny is germane to the Equal Opportunities Committee’s existence.

Marlyn Glen: We have talked about the voluntary sector and violence against women. Are impact assessments done on the cutting of grants to organisations? I am thinking about Scottish Women’s Aid, because Lily Greenan spoke about the issue. Whose job is it to impact assess the cuts? Is it the local authority’s job?

Dr Scott: If the local authority manages the money, it is absolutely our job.

Marlyn Glen: Does that mean that a local authority would have to consider whether cutting the grant would mean that there would be fewer refuge places?

Dr Scott: The EHRC has made it clear that work on violence against women is a key indicator of a public sector body’s work on gender.

Marlyn Glen: Such work is a priority for the Government, too. As with the issue to do with salt supplies that we heard about, cutting can have financial implications—never mind the social and psychological implications and everything else.

Dr Scott: There are some things that we just cannot afford to cut.

The Convener: We will move on. I ask everyone to be as succinct as they can be.

Stuart McMillan: Just before I ask my question, I have one brief comment, if that would be okay. Morag Gillespie commented on efficiencies and the lack of salt last winter. I will defend local authorities on that. As we all know, it was a

particularly awful winter. I say that as someone who ended up in accident and emergency after slipping on the ice. I do not blame the council for that at all.

Morag Gillespie: The other side of that is that I know of one health service worker who is still not fit for work as a result of falling on the ice. The cost was enormous and weather warnings were given. People thought that they could ride out the storm.

The Convener: Let us move on from that debate.

Stuart McMillan: My question is for Peter Hunter. It is about equal pay for women in local government. We are well aware of the financial risk that can arise from a failure to tackle unlawful inequalities. Will you comment briefly on the extent to which the financial liabilities for past discrimination have been met?

Peter Hunter: I will try to be brief on my specialist subject. The best thing to do would be to consult your colleagues on the Local Government and Communities Committee, which held an exhaustive investigation into the issue and made a number of recommendations in its report of June of last year. It said that a settlement framework should be set up at a national level and that a new audit methodology should be created to examine pay systems to ensure that discrimination had been removed. No significant progress has been made on those recommendations.

In May of this year, the Local Government and Communities Committee took evidence from Councillor Cook, who is the staffing spokesperson for the Convention of Scottish Local Authorities, and Joe Di Paola on local authorities' implementation of the recommendations one year on. It also took evidence from Audit Scotland. If you revisit the relevant passages of the *Official Report*, you will find that they support my position that relatively little has been done. There is a significant liability that still needs to be addressed, and that is before we come on to what we believe is the continuing discrimination in the brand new pay system that single status was intended to introduce. We have had the new scheme independently analysed. I do not want to go into the detail of that too much; suffice it to say that it has 13 factors that people are evaluated on, 12 of which favour men. We have got rid of the bonus and in its place we have a new discriminatory system.

We have tried to use the Parliament and other scrutiny bodies to have the issue addressed. In response, in order to protect the interests of our members, we have no option other than to continue to mass litigate. Currently, we are lodging 500 new claims every month, which could be

extremely burdensome for public bodies in Scotland, but we are left in the position in which we have no other option. The handling of equal pay continues to be—perhaps alongside the handling of the Edinburgh care and support tender—another splendid example of how not to do things.

Stuart McMillan: You said in your opening remarks that the social norms are outdated. In light of past decisions, the recent introduction of the single status agreement and the measures that the Chancellor of the Exchequer announced last week, many of which will adversely affect women more than men, surely women in Britain will be feeling hard done by. They will be affected not just by decisions that have already been taken, but by what it is proposed will happen to them in the future.

Peter Hunter: There is considerable disquiet. Many of the women whom we work with on equal pay were at the demonstration in Edinburgh on Saturday. I interviewed and filmed some of them. I know from speaking to them that they are disillusioned by the length of time things have taken. Some of them have had tribunal claims in the system for five years that have not gone beyond case management, which is an administrative process. So their confidence in politicians and the willingness of politicians to deliver equality is very low. Similarly, their confidence in the judicial system and its ability to deliver equality is low. In addition to all that, because of the wider financial crisis, which was not of those women's making, their jobs are at risk. So "dispirited" would be a fairly modest way of describing how our members feel at the moment.

The Convener: Mr Hunter, you said that you had no alternative but to litigate. Is mediation not being considered at all? Money is being poured in by local authorities to get more solicitors at public expense, which takes money away from front-line services. Where is the move to mediate and why is it not being forced through? It would save so much time.

Peter Hunter: I can give an unconditional commitment on our part to take part in any form of dispute resolution, whether it is conciliation, mediation or arbitration. Ultimately, the claims belong to our members but, when they have been made offers in the past, they have tended to accept them in maybe 90 or 95 per cent of cases. Our people are willing to take part in dispute resolution when it is on offer. In the aftermath of the Local Government and Communities Committee report, we have written to the employers on two occasions seeking discussions with them on the findings of that report and how we can put those into practice. However, nothing

has been forthcoming. That is partly to do with a fairly well-publicised strain on our relationship in relation to several other matters.

I restate that we have an unconditional commitment to take part in any form of dispute resolution to move the equal pay issue forward in a mutually beneficial way. That would mean resolution at compensation levels that are short of full value. In our experience, many of our members are happy to take that up as an option. Our problem is that it takes two to tango.

I have another recommendation that is pertinent for the committee. In general, parliamentary committees, in engaging on the issue and performing their scrutiny role—although that is only one element of your responsibilities as MSPs—have been far more effective scrutinisers of the problem than what we might call the real scrutiny agencies. Audit Scotland needs to step up to the plate. The past work of MSPs has identified the potentially damaging and unaffordable cost of unequal pay and its financially destabilising effect. That was bad enough in the past decade, which was relatively prosperous by comparison with the decade that we have coming. We cannot afford to let the problem go on any longer.

Audit Scotland and, I suspect, the Scottish Government and the Parliament need to examine the Local Government in Scotland Act 2003 with fresh eyes. It contains a duty for continuous improvement but, when budgets are being reduced by 5, 10 or 15 per cent, there is a question mark about whether continuous improvement is a realistic objective. We need a statutory duty for damage limitation or some other similar phrase. I am not sure about the extent to which the phrase “continuous improvement” ever meant anything to anybody anyway, but the current duty is to deliver continuous improvement with efficiency, effectiveness and economy, having due regard to equality and sustainability.

We need to revisit all that. We need guidance that reflects our current understanding of the urgency of the situation and the need to address not just the financial instability that comes from inequality, but other financial problems that arise from a failure to comply with the best value obligations. Audit Scotland, in addition to doing the best value audits and examining service delivery and the efficiency of council services, has a duty to scrutinise equality measures.

I am optimistic that it can play a key role. It is willing to do that, but it needs local authorities to work with it. Another useful recommendation that the committee could make would be for Audit Scotland, COSLA, the trade unions and other relevant stakeholders to knock some heads together and to provide the kind of mediation or conciliation that the convener mentioned.

11:30

The Convener: The consequences of continuing to spend on maintaining unequal pay, as opposed to resolving the problem, should be self-evident from equality impact assessments. That is a key area for the committee to examine in the budget process.

Hugh O'Donnell: My question is addressed to Peter Hunter. You made a number of legitimate points—and expressed some contentious views—on cuts and proposals. Leaving aside the equal pay issue, which is a long-standing thorn in everyone's flesh, to what extent are public services free of on-going discrimination? Are you aware of new elements of discrimination? On a number of occasions, you used the expression “in my view”. During my time on the committee, I have been acutely aware of the extent to which people say “let it be so” and something becomes a fact and reality. To what extent are new, on-going discriminations being monitored, evaluated and addressed?

Peter Hunter: I will not add to what Marsha Scott said about equality impact assessments; she gave a clear exposition of how assessments are done. Data are essential. We need data about new and emerging forms of discrimination. However, if you know from impact assessments that what you are doing will have negative consequences, you have a duty to act to mitigate them—it is not enough just to identify those consequences and file the assessments away.

Beyond that, if you know that what you are doing will still have adverse consequences, you are statutorily obliged to monitor those consequences over time. We are talking about cuts packages that will be in place for three, four or five years. There is a specific duty to monitor new forms of discrimination as they emerge, because the financial situation may change in two or three years' time and be slightly less onerous than it is now. There may be improved scope to mitigate discrimination against the elderly or disabled, for example, if the financial position eases. You will know to have that on the agenda only if you perform the monitoring duty that goes with having identified that there is an adverse impact in the first place.

For the sake of speed, I return to the issue of care and support services for disabled people, which may emerge and sit alongside equal pay as an example of the economic and financial cost of failing to manage equality and human rights consequences. I do not know the outcome of the decision, but I suspect that in the Cadder case, on which it will rule today, the UK Supreme Court will find that failure to give people access to a solicitor when they are being interviewed in relation to criminal allegations is in breach of the European

convention on human rights. Members may be involved in emergency work to protect the public purse from the consequences of that decision.

The conditions in which elderly and disabled people will be forced to live as a result of privatisation, outsourcing or reductions in the quality, frequency or duration of service will put some authorities in breach of convention obligations; in some cases, that has already happened. Today's Cadder decision relates to criminals. It happens that criminals have been fairly well resourced, through criminal legal aid, to make use of their human rights. Disabled and elderly people have human rights. They will litigate against public bodies if those rights are infringed, which has the potential to cost the public purse money that is not there to pay out.

Repealing the Human Rights Act 1998 or removing the incorporation of the act in the Scotland Act 1998 would be not only morally and ethically offensive to the Parliament, but legally ineffective, as we can remove the legal entitlement to the protection of human rights and equality rights only by removing our subscription to and endorsement of the European convention on human rights. All that the Scotland Act 1998 and the Human Rights Act 1998 do is create a particular forum for the implementation of those rights. If we remove that forum, there will still be the European Court of Human Rights through which people can achieve justice. The idea that human rights and equality rights are something that we can opt out of is simply wrong. I cite care as a very real example. If you had the capacity to look at case studies, as was mentioned earlier, that would be particularly instructive.

Hugh O'Donnell: Thank you for that. I am interested in your observations about care. In trying to get the balance right between cost and quality, outsourcing to the voluntary sector does not necessarily mean damaging the service—having worked in the voluntary sector for a good number of years, I am much more sympathetic to that than I am to outsourcing to the private sector—although, given Unison's position, I understand why you might want to put forward that argument. Nevertheless, local authorities need to be a bit fairer in the way in which they come to their assessments, as squirrelling back-office costs into more general administration budgets disadvantages external tenderers, particularly those from the voluntary sector.

I am interested in what Morag Gillespie said about lazy decision making. Can you give an example of that? It does not have to be identifiable.

Morag Gillespie: I am not naming names.

Hugh O'Donnell: No names, no pack drill. Is there a risk that the current budget constraints at local and national levels will create new liabilities? Where is that particular train coming down the track from?

Dr Scott: I will not apologise for banging this drum because it needs to be banged. We are all aware of the fact that women make up 70 per cent of the public sector and the fact that 95 per cent of single parents are women. Aside from the equal pay issue—I do not really mean that, Peter—in the context of those two facts and in the current environment, our lack of engagement with women's inequality is the liability that we have failed to address.

In West Lothian, we have set up employee networks and all kinds of consultation mechanisms but the nut that we have found the hardest to crack, in terms of consultation, is gender, as women are not a minority. There is a whole process around this that is called equalities but which is, in a sense, about minoritising gender and women—making women invisible in the equalities context.

The biggest liability that we face is the fact that we continue to fail to engage with women's inequality, and we will continue to pay the enormous costs that that results in unless we find some way to make it so around equal pay and around plans that focus on the most disadvantaged. Violence against women costs £4 billion a year in Scotland. If we fail to address the need for housing, child care and good jobs for women, we will continue to pay that £4 billion a year.

Morag Gillespie: I do not disagree with anything that Marsha Scott said, but I think that you should guard against focusing on liabilities as a rationale for making service decisions, because, quite frankly, the most vulnerable groups in our society will not have any liability claims—they will just disappear back into the house that they came out of when they popped their head over the parapet to try to use a service. It is absolutely essential that a balance is struck between the people in our society who are powerful and make their voices heard and who are the beneficiaries of our unequal society—if indeed there are beneficiaries in an unequal society—and the people who are poorer, more vulnerable and much less able to articulate their case.

I will give you an example that is not necessarily about direct local authority service delivery. We evaluated a series of projects for the Scottish Government, one of which was a money advice service project for people with learning disabilities. When I interviewed the group of people who used the service, one of the things that I learned was that the majority had used advice services in the

past, but they had used them only once and had never gone back. They did not understand the advice, they did not like the way that they were treated, they did not get any sense that the person whom they spoke to was going to help them, and they did not understand the written information that they were given, so they just never went back for more advice.

At the same time, there were individuals who owed hundreds of pounds—in one case, more than £1,000—in penalty charges on bank accounts. Those individuals had to get bank accounts in order to get their benefits paid, but they were unable to manage them. Believe it or not, bank accounts are not the be-all and end-all of financial inclusion. In fact, they are positively counterproductive for some groups of people. We had individuals who faced terrible financial exclusion and disadvantage, and mainstream services were completely oblivious to their failure to provide a decent service. By good fortune, the individuals landed at the door of a very good learning disabilities service and finally got help. That has to be replicated out there in the community.

The most vulnerable groups might well have support services in place that will help to steer them through some of the complexities of their life. However, it is a wee bit scary that, as the conditions for getting services change and become more complex, the most disadvantaged people will tend to fall off the bottom, particularly those who are not getting support. If advocacy and support services disappear, individuals will disappear. Some might think that the pressure is then off their services; great, we are all winners—except for the person who is no longer getting those services and whose quality of life has diminished because they are not getting the support that they need. It is essential to ensure throughout all this that having people disappear from our books is not a solution. We really must not lose sight of that.

I agree with Marsha Scott that gender is important, but there are lots of other considerations, too, particularly in relation to people with mental health difficulties, learning disabilities, physical impairment and literacy problems, people whose first language is not English and migrant communities, the conditions for some of whom are quite appalling—we would not accept them for a second for the indigenous community.

Hugh O'Donnell: Thank you. Does Peter Hunter have anything to add?

Peter Hunter: If your question is where will these challenges come from, the answer is us. We will be supporting people in direct challenges to

reductions in service if we think that they are unlawful.

11:45

Bill Kidd (Glasgow) (SNP): That is all extremely interesting, and it links into what I was going to ask. My question is mainly directed at Morag Gillespie, but if either of the other witnesses has anything to say, that would be very welcome.

The IBR panel looked at the differentials and cost benefits to public services of universal services and greater means testing. The report states that

“Ensuring services are focused on the most needy”—

which, in itself, sounds perfectly rational—

“can reduce the burden on the public purse and increase the effectiveness of spending”.

I ask Morag Gillespie to comment on the efficacy or otherwise of targeting resources specifically, or to the maximum level, on those in the greatest need via a process of dismantling universal services and introducing greater selective means testing.

Morag Gillespie: I have to start by saying that I am not the world's biggest fan of means testing, for good reasons. The main one is that I think that means testing does not necessarily make it any easier for you to reach the people that you want to reach, because it can exclude people. It can be very stigmatising, depending on how it is delivered. It can also be very expensive to do and to deliver, because it increases administrative costs and makes fewer resources available for direct services at the very time when you would hope that the most resources possible would be focused on direct services rather than on administrative systems to measure conditions.

Coming back to my previous point, the more complex it is for people to access a service, the more likely it is that there will be groups of people who do not even try. The best place that you can look to see the impact of means testing is the benefits system. The benefits that are least well taken up are means-tested benefits. They are not well taken up not only by people who are entitled only to very small amounts but by certain numbers of people all the way through the income distribution levels.

I come back to my point that I do not think that a dichotomy exists between universal services and means testing. It is important to strike the right balance and recognise that there is not necessarily a complete dichotomy between the two. The importance of universal services, of course, lies in the fact that they are important for social solidarity. In recent years, we have seen that, as benefits have become more restricted,

more means tested and less universal, public attitudes towards people who claim those benefits have hardened.

Even though benefits rates have fallen further and further behind wage inflation, people think that folk are less deserving and that they should get even less still. It might seem perverse, but there is currently a cycle of decline in public attitudes. For example, 38 per cent of people now think that we need a more equal society. The figure was 51 per cent as recently as 1994, yet inequality has grown over the past 10 years. We therefore have a more unequal society, but fewer people think that that is a problem. There are people on lower and lower levels of benefits, but other people do not think that they deserve what they get. There are initially confusing messages in those public attitudes, but I think that they go together. There has been a bit of a cycle going on.

You would need to think carefully about how means testing of services might affect whether the people who most need the services will access them. People at the margins might give up because they do not think that they will qualify. Unless 32 different councils, health services and so on have a very good ability to communicate messages about the rules of entitlement, people will lose out. The level of understanding that will be required will mean that, to be perfectly honest, the middle classes will access services best. You might, in fact, end up focusing services more towards the middle income groups than the poor groups.

Bill Kidd: Are you saying that, if you take out the majority of people who are on a universal benefit—people who are on relatively low or middle incomes—they have nothing invested in that benefit any more and therefore no incentive to ensure that it continues and to support it, and that therefore no one supports the delivery of the benefit to those who are in need?

Morag Gillespie: That is the case over the piece. I am not saying that everything that is delivered and done needs to be universal, but there needs to be a balance. There needs to be something if the public are to support the services that are delivered.

You can look at the question of when and how people should pay. I will be outrageous for a minute. One interesting example of policy change has been in the area of NHS prescription charges. I think that it is good that people are paying less—and, I hope, eventually paying nothing—for their prescriptions. I even think that it is good that I pay less, and may not need to pay at all, for my prescriptions. However, I think that I should pay more tax. This is where I must say, with all due respect, that redistribution is not just about how you shuffle a smaller and smaller piece of the pie

while people keep more of it to themselves. Redistribution must be at the front of policy and about how you can make the pie adequate, so that people contribute fairly when they can contribute and can access services fairly when they need them. I am thrilled with free prescriptions if that is a policy aim, but I should be paying a penny more on my tax in Scotland. I know that those are words that should not be uttered politically, but we have to find a way of addressing the tensions.

People who are better off can afford to pay more. Goodness me—they have done better over the past 10 years than poor people. At what point should we say that poor people should not pay the whole price for what has gone on? I think that the time is now. If we cannot look seriously at whether the Parliament's tax powers can be used now, they are a folly and are there for decorative purposes. I cannot imagine the circumstances in which you would consider using them if you will not consider using them now.

Bill Kidd: I think that there is a lot of decoration involved, but that is beside the point.

That was interesting—thank you. Does Peter Hunter or Marsha Scott want to contribute?

Peter Hunter: I will be brief. My core message today is that I think that the fundamental equality and human rights entitlements of many service users will be infringed by what is coming in the years ahead in terms of dignity and humane treatment. Although universality of access to services is an important principle, it may come under unsustainable pressure when we need resources to ensure that we do not violate people's basic rights in the cuts process. Ideally, the answer is yes to universality for all the reasons that Morag Gillespie gave, but something has to give.

Dr Scott: I have to say the predictable thing—you can tell from the way that I speak that I was possibly not born opposed to means testing in the way that some of my friends in Scotland are—which is that benefits need to be equality impact assessed. Let us take child benefit as an example in the grand scheme of benefits for which women or households are eligible. Let us take a benefit that is based on household income. There is all kinds of evidence to show that women have diminished access to that income, so what is the impact if we take away the one form of benefit that is paid directly to women? If the household income is higher than a certain amount, there will be no access to the benefit, but if the woman cannot access that income she will clearly pay a differential price for the change.

As with everything else that I have said, and like Morag Gillespie to a certain extent, I am less concerned that we come down on the side of

universality and more interested in services that serve the people who are most in need.

Christina McKelvie (Central Scotland) (SNP): Good morning panel—although we are nearly reaching into the afternoon.

I want to focus a question on the next five years. What steps are crucial for the Scottish Government to take to protect the Scottish labour force—in particular the low paid, who are usually women, and young people—and to secure employment and retain people in meaningful paid work?

I do not think that we can look at the Scottish labour force on its own, given the UK benefits system's direct impact on it. Earlier, Marsha Scott told us that, when asked, people said that they needed a house, a job and affordable child care. In that respect, I am concerned about lone parent conditionality; indeed, I share those concerns with the Fawcett Society, on whose stuff I did a bit of work over the summer just for my own interest. According to its evidence, 92 per cent of lone parents are women and the lone parent conditionality

“will penalise women who cannot find paid work that is compatible with their child care responsibilities”,

which brings us back to the point about the need for a good, sustainable job and child care. However, as the society also makes clear:

“This penalty will be further expounded for those who do not find work within a year, as they will have their housing benefit cut”,

which means that the house in which they live will also be jeopardised. Bearing in mind that we in Scotland have to work within the restriction of having no control over the benefits system, can you point to any areas where the Scottish Government might be able to protect the Scottish workforce?

Dr Scott: As I said very early on in the meeting, if we are to ensure that we have more resources to invest, we must look at where we are investing. In saying that, I also throw the issue of taxation out there. We have already provided major investment to our financial services industry via our bank bailouts and I believe that, if we are to deal with the three areas that you referred to, we must invest in the care sector to ensure that it not only delivers all kinds of services, but provides some insurance against unemployment for women who are marginally employed or are single heads of households, with the positive cascade that that will provide.

Peter Hunter: One of the few benefits of the austerity and hardship that we are now looking at is that employers have greater powers to do things that in a tight labour market they would have found

difficult to do. In that context, there is no excuse for not delivering robust equal pay—finally—which would be to the considerable advantage of women and the general economy.

Moreover, with regard to rises in the cost of living, if the austerity measures mean that there is no year-on-year increase in workers' salaries, the current Government's commitment to the living wage for not only Scottish Government workers but all public sector workers must be built in as a safety net to the bottom end of pay scales. If it is being suggested that we cannot afford to pay cost-of-living rises to people on £30,000, £40,000, £50,000 or £60,000 a year, Unison will campaign against that, but if the Government believes that that is unavoidable there should, at the very least, be a safety net to ensure that pay restraint does not compound any adverse impact on people who are already being paid an inappropriately low wage.

The situation with young people is difficult. We are still suffering the legacy of the exclusion from the labour market of tens of thousands of young people in the 1980s and 1990s and we very urgently need to think about how we learn those lessons and avoid reproducing that problem in the difficult times that lie ahead. No matter whether we have a double-dip recession or just a prolonged period of very low growth, young school leavers will face considerable problems in accessing the labour market. Indeed, those problems will be compounded by proposed changes to access to higher and further education.

Compared with when I went to university, which is longer ago than I care to remember, an enormous number of young students now hold down either full-time or part-time work. That is partly because of their expectations of a particular lifestyle. Students are not willing to put up with the relative poverty that we put up with for a couple of years in exchange for a higher education. It is also to do with grants, fees and access to money. However, as a consequence, middle-class, presentable, highly employable and articulate students are holding down what I would more properly call entry-level jobs for working-class kids from the estates who would otherwise be unemployed. It might be a negative, unintended, secondary consequence of the further attack on students and their income that they will increasingly dominate entry-level jobs in the labour market to the disadvantage of working-class kids who, instead of being low-paid, will be unemployed, to our collective societal detriment.

12:00

Morag Gillespie: I do not want to cover ground that has already been covered, but I will pick up on the housing benefit point that was raised in the

question. My experience is that lots of women and people who are struggling to return from unemployment to the labour market get low-paid and insecure jobs. We also know from the research that cycling between unemployment and low pay compounds and deepens poverty. It is almost worse than being on benefits or in low-paid work because of the disruption that is caused in people's lives as they move between unemployment and low pay. The welfare spending plans and benefits cuts that are likely to come through will be really important for such people.

Another thing that I know from research is that people find it hard to see beyond what they think are insurmountable barriers to holding down a job, such as having a roof over their head or being able to access child care. It is only when those insurmountable barriers are addressed that the others kick in—skills, ability, jobs in the area and discrimination by employers, which still exists, even if we do not talk about it very much.

Over the next few years we will have to add the problem of housing. I do not know how much the committee has thought about the issue. The Scottish Federation of Housing Associations, for example, has highlighted some of the housing benefit changes, such as reducing the level of market rents that is used for the calculation of local market rents from the median to the 30th percentile. There are also plans to uprate local housing allowances by using the consumer prices index rather than the retail prices index, which means that they will go up less over time. Property size has also been mentioned. People will need to be living in the right size of property for the size of their family in future or they will get fewer benefits. In other words, a mum whose kids have just left school and gone to university and who is living in a three-bedroom house will get fewer benefits. That is fine. When the rest of us have an extra room, we leave and move to a smaller house because that is the right thing to do, do we not? No, we do not. That is not how people normally live their lives, but people who rely on benefits will have to think that way now.

Also, when people have to pay 10 per cent of their housing benefit from their jobseeker's allowance from 2013, they may be evicted from their privately rented homes because they will end up in arrears. They will not be getting that extra 10 per cent that they will have to pay; they will have to pay it from their benefits, which will increase by the CPI only. We will be kicking people when they are down, frankly. That is the only way I can view the situation. The consequences of that will have to be addressed by housing services in Scotland. There will be a real risk of a rise in homelessness and of increased demand on housing association properties. People in such circumstances will not be thinking about whether they can move into

employment. Whether debt is about rent or the hike in fuel prices that we will have to face, it is a real barrier to employment.

As Marsha Scott pointed out, when we think about a problem, we decide on the main thing that we need to address, but there are layers of issues behind that that will help or hinder progress. Housing and tackling debt are key issues that will have to be addressed and support will have to be sustained all the way through the process, or people will really be disengaged from the labour market.

To be frank, of all the policy areas in which preventive thinking needs to be done as the welfare spending reviews go through, housing is the one in which we will have to think sharply about the consequences. Social housing will have to deal with the consequences of decisions that are made in the UK Government and I hope that the response in Scotland will be—there is loads of potential for it to be—much more constructive than the notion that seems to be coming up in England that the right to a lifetime's tenancy should also be removed so that tenants do not have security of tenancy even when they pay their rent.

Christina McKelvie: That is really helpful. We could have spent a lot more time on that question, but I know that we have none left. I will leave you with one wee point—I am not looking for an answer on it—from the Fawcett Society report:

"Analysis by the House of Commons Library shows that 96% of the revenue raised from the introduction of lone parent conditionality will come from women's pockets".

That is quite a sober thought to be left with.

Marlyn Glen: I will quickly return to targeting. Morag Gillespie's comments on housing are partly an answer to the question, but I ask the witnesses to comment on other options for targeting not only individuals, but services. What options are there for more effective targeting of public resources? Marsha Scott talked about public transport and we talked earlier about insulating housing, which would mean that everybody would spend less money on heating. Do you have any brief comments on that?

Morag Gillespie: Home insulation is important because it represents inverse targeting: the easiest way to achieve an energy-related target is to provide subsidy to people who have control over improving their home insulation—that is, owner-occupiers. Social tenants not only do not have the control but probably do not have the money to do it. Nor are they in a position to achieve the insulation that may be needed in their homes.

I have installed the cavity wall insulation that was available at a knock-down price. My home is insulated and my fuel bills are cheaper but my pal

down the road, who lives in a council house with single glazing and no cavity wall insulation, is paying through the nose a premium price for fuel. That sort of situation must be scrutinised much more closely. We focus far too much on personal social services when we think about targeting. We must look across the board.

Transport has already been mentioned. Do not increase public transport costs if you can do other things that relate to other forms of transport that will have less of an impact on the poorest groups.

There are different ways of targeting services short of means testing, such as area-based targeting. I used to know my way around one area—not Edinburgh—by the roundabouts. When I saw a cemented-over pancake roundabout I knew that the area was poor; when I saw a nice roundabout with shrubs, trees and flowers on it, I knew that it was more affluent. To be frank, I have since realised that that area is not the only place like that. If we see pancake roundabouts, there is a pretty good chance that we are in a fairly poor area of the community. If you have never noticed that, it is worth looking out for. It would be an interesting research exercise and might work as a way of defining the relative poverty of areas.

Are services being delivered equitably? When we consider whether we can deliver services such as groundkeeping, we should ask whether they should be refocused so that all communities within a given area benefit from them, not only the more attractive areas. We all would like to live in a nicer place. It would make a small contribution to mental health.

The Convener: We could go on. It is a problem-solving issue. What if there has been continual vandalism and the plants have been uprooted? We could say a lot about that.

I will allow Marsha Scott to comment briefly, but I want to wind up. We have been at questions and answers for two hours now.

Dr Scott: I always feel that there is a tension between targets and our supposedly outcome-focused culture. There have been contexts in which targets were helpful for improving outcomes, although I am not sure that I could come up with more than two examples.

In the grand scheme, we are all about targeting if, as we should be, we are trying to reduce the inequality gaps, but we could call it whatever we like. At the moment we target many of our resources to people who do not need them so much. It is not a case of targeted bad, universal good but we have to be held accountable through the outcomes that we deliver. The outcome is whether we are reducing the inopportunity gap, as I would call it.

For instance, the life stages project that I mentioned is about targeting our resources at the communities and people in the communities who most need them and will make a difference so that, if we get it right on early intervention, we get it right eventually for the older people. In that sense, we are targeting. We simply have to be honest about it and be willing to shift some of our resources. For instance, in West Lothian, if we have public transport in areas of high car ownership, what are we doing? Perhaps we should move some of that resource into communities in which there are fewer cars.

We must ask that kind of question. It is not a case of targeting being bad. Outcome-based targeting is appropriate.

The Convener: That completes our questioning. Thank you very much for providing a clear and helpful insight into where we should focus when we scrutinise the budget.

We now move into private, so I ask any members of the public to leave.

12:11

Meeting continued in private until 12:51.

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

Members who wish to suggest corrections for the revised e-format edition should mark them clearly in the report or send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP.

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by RR Donnelley and is available from:

Scottish Parliament

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

For more information on the Parliament, or if you have an inquiry about information in languages other than English or in alternative formats (for example, Braille, large print or audio), please contact:

Public Information Service

The Scottish Parliament
Edinburgh EH99 1SP

Telephone: 0131 348 5000

Fòn: 0131 348 5395 (Gàidhlig)

Textphone users may contact us on **0800 092 7100**.

We also welcome calls using the Text Relay service.

Fax: 0131 348 5601

E-mail: sp.info@scottish.parliament.uk

We welcome written correspondence in any language.

Blackwell's Scottish Parliament Documentation

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

Telephone orders and inquiries

0131 622 8283 or

0131 622 8258

Fax orders

0131 557 8149

E-mail orders, subscriptions and standing orders
business.edinburgh@blackwell.co.uk

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:

243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Accredited Agents

(see Yellow Pages)

and through other good booksellers

e-format first available
ISBN 978-0-85758-152-5

Revised e-format available
ISBN 978-0-85758-222-5