The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 7 December 2011

Session 4

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE
13th Meeting 2011, Session 4

CONVENER

*Joe FitzPatrick (Dundee City West) (SNP)

DEPUTY CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

COMMITTEE MEMBERS

*Kezia Dugdale (Lothian) (Lab)
*Mark Griffin (Central Scotland) (Lab)
*Margaret Mitchell (Central Scotland) (Con)
*David Torrance (Kirkcaldy) (SNP)
*Bill Walker (Dunfermline) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Chris Goulden (Joseph Rowntree Foundation)
Annie Gunner Logan (Coalition of Care and Support Providers in Scotland)
Donald Hirsch (Loughborough University)
Peter Kelly (Scottish Living Wage Campaign)
Rhys Moore (Living Wage Foundation)
Dave Moxham (Scottish Living Wage Campaign)
Pat Rafferty (Unite)
Dave Watson (Unison)
Nick Waugh (Scottish Council for Voluntary Organisations)
Danny Williamson (Public and Commercial Services Union)

CLERK TO THE COMMITTEE

Eugene Windsor

LOCATION

Committee Room 6

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 7 December 2011

[The Convener *opened the meeting at 10:00*]

Decision on Taking Business in Private

The Convener (Joe FitzPatrick): Good morning. Welcome to the 13th meeting this year of the Local Government and Regeneration Committee. As usual, I ask everyone to ensure that they have switched off any mobile phones or electronic devices.

Do members agree that we should take items 4 and 5 in private?

Members *indicated agreement.*

The Convener: Are there any declarations of interests?

Kevin Stewart (Aberdeen Central) (SNP): I declare an interest as a member of Aberdeen City Council.

Bill Walker (Dunfermline) (SNP): I make a similar declaration as a member of Fife Council.

David Torrance (Kirkcaldy) (SNP): I declare an interest as a member of Fife Council.

Kezia Dugdale (Lothian) (Lab): I declare an interest as a member of Unite the union.

Mark Griffin (Central Scotland) (Lab): I declare an interest as a member of North Lanarkshire Council and a member of Unite the union.

Kevin Stewart: I should declare another interest, as I am a member of Unison. I am sorry, but I did not think of that.

The Convener: Thank you.

Living Wage Inquiry

10:01

The Convener: We come to the first of three evidence sessions that we plan to hold on the living wage in Scotland. We will have three panels of witnesses today.

Members of the first panel represent organisations that are involved in the development of the methodology that is used to calculate the living wage and they have an academic perspective. I welcome Donald Hirsch, head of income studies at the centre for research in social policy at Loughborough University; Chris Goulden, policy and research manager at the Joseph Rowntree Foundation; and Rhys Moore, director of the Living Wage Foundation.

We are tight for time, so rather than ask panel members to make opening statements, I will throw in a generic question. What are the advantages of having a living wage throughout society and what are the challenges in implementing it?

Rhys Moore (Living Wage Foundation): Good morning. Thank you for the opportunity to give evidence.

I will say a few words about the Living Wage Foundation, which was launched earlier this year, so it is relatively new. It is an initiative of Citizens UK, which is the charity that kicked off the London living wage campaign 10 years ago. The foundation’s aim is to raise awareness of the living wage among the public.

We worked on the living wage campaign in London with cleaners, security staff and catering staff, who are largely the workers who have been impacted by the campaign, and our experience is that the key advantage of the living wage is that it brings dignity back to work. Those workers have often been forgotten and they are sometimes unseen because their hours of work are such that they often work under the cover of darkness. The living wage shines a light on their work and brings a degree of dignity back to it. For starters, it means that work pays but, more than that, it allows those workers to engage properly in their communities and in family life, because they no longer have to hold down two or three jobs to make ends meet.

Chris Goulden (Joseph Rowntree Foundation): The Joseph Rowntree Foundation is an endowed charity that supports social research into the causes of poverty. Our research aims to find solutions to poverty in terms of policy, practice and behaviour. For a few years now, we have supported research on minimum income standards. The evidence from that suggests that, although the cost of living varies in some respects across the United Kingdom, by and large, budgets are similar. Donald Hirsch will be able to say a bit more about the detail of that research. The JRF funds research on income standards as a core part of our work. We are interested in how they are applied in practice, but we are the funding agency behind research on MIS.

Donald Hirsch (Loughborough University): I lead the work on minimum income standards, which is trying to determine what income people need, as a minimum, to have an acceptable standard of living in the UK.

The research evidence shows that, sadly, in the UK, work is not always a sure route out of poverty. Moreover, any objective measure of what income a family needs for a decent standard of living shows that, sadly, the minimum wage is rarely enough to get families over that threshold. The advantages of having a living wage as a benchmark and standard are that it makes clear what employers need to do to ensure that their employees get to that level, and that progress can be measured against a research standard rather than our relying on the statutory minimum, which is defined in different ways and does not have a relationship to a living standard.

The Convener: Thank you. Do members have questions?

Kezia Dugdale: If it is okay with you, convener, I have a question for each of the panellists, but they can also speak to each other's questions if they feel that that is appropriate.

My first question is for Donald Hirsch. How robust is your model and how Scottish is it? Is there anything in it that might not apply here or is it robust in that the way in which it calculates things applies to the whole of the United Kingdom?

I ask Chris Goulden to comment further on the impact of low pay and what poverty pay means for people's livelihoods.

I have several questions for Rhys Moore. How important is political will in driving the case for a living wage? I am conscious that the living wage in London has continued to increase under Boris Johnson, which is a huge achievement, I would have thought. Is it important to have political leadership to drive things forward? What have been the material impacts or benefits of the living wage in London, to business as well as to employees?

Donald Hirsch: As a measure of a standard of living for the United Kingdom, our minimum income standard, which the living wage sits on, is quite robust. Most of the costs are priced at chain stores, which have common pricing policies throughout the country. The research that we have done includes a bit of research in Scotland and it shows that people's concept of a minimum standard of living is similar across the UK.

There are great advantages in developing a method that produces a single figure for the whole country—although we do not include London as it is an exceptional case—because it is relatively easy for everybody to understand and it creates a norm. Once we start localising things, it is difficult to know where to stop. It is a fundamental characteristic of a minimum living standard or a minimum wage standard that everybody has different needs, so there are advantages in having some commonality and a standard that is at roughly the right level for everyone rather than different, precise levels for each person or community.

I suggest in the written evidence that I submitted that there are some relatively small differences in Scotland but that the variation within Scotland might be greater than the variation between Scotland and the rest of the UK, and it would therefore not necessarily solve things to research a separate standard for Scotland.

Chris Goulden: Poverty harms people's opportunities, particularly children's opportunities. We have done some research that estimates that child poverty costs the economy at least £25 billion a year in extra spending on services and the lost earnings in the adult lives of people who grow up in poverty. That places a considerable weight on the economy.

At least half of child poverty occurs in families in which someone is working. The issue of in-work poverty is as important as that of worklessness. The figures show that, when a member of a family in persistent poverty—that is, a family that is in poverty for three years out of four—gets a new job, more than half of the family members are still in poverty a year later. Work might be the best route out of poverty, but it is not correct to say that it is an effective route out for the majority of families in persistent poverty. Part of the reason for that is low levels of pay, but it is also to do with low numbers of hours, insecure work, and the fact that many people in low-paid, low-skilled work are unable to progress. Low pay is certainly one of the factors that drive child poverty and poverty among working-age adults in the UK.

Rhys Moore: Political will has been key to the success of the campaign in London. It started without any political will behind it, as a civil society campaign. The initial work on calculation of the living wage rate was done by the charity London Citizens together with Unison and the Family Budget Unit. It was therefore done by civil society, which has driven the campaign in London. However, a key moment was when the Greater London Authority took on the role of calculating the living wage rate for London. A team within the GLA—GLA economics—calculates the living wage for London annually, which provides credibility for the calculation. It is also reassuring for the private sector to know that a team of economists in City Hall is doing that calculation.

The GLA has illustrated another aspect of political will, alongside the championing and the calculation, in its role as an employer. It has set a standard and shown leadership on the issue, and that has had a real impact on the success of the campaign in London. The GLA is the biggest living wage employer in London, with 2,000 directly employed staff. It also has an effect through its procurement practices. In Transport for London, for example, all the cleaners on the tube are paid a living wage because of the example set by the GLA. Boris Johnson continues to be a great champion of the living wage, as Ken Livingstone was before him.

On the business benefits and why the private sector has taken to the living wage in London, the evidence in studies that I am happy to share with the committee is that the impact of introducing the living wage has been a reduction in staff absenteeism and a marked reduction in staff turnover, and the costs associated with rehiring are therefore greatly reduced. The picture is not the same across the board, but the experience of private sector employers has been that the living wage can certainly be introduced to procurement at low cost, and sometimes at no cost.

Kezia Dugdale: That is helpful. I want to follow up the points that Donald Hirsch and Rhys Moore made. Donald, you mention in your submission the relationship between the cost of fuel and heating and the cost of housing, and you suggest that the lower cost of housing in some areas is offset by higher fuel costs, so the living wage should apply equally in all parts of Scotland. I want to ask you about inflation. The cost of living is rising rapidly, is there a cap or mechanism in the formula to account for that?

My next question is for Rhys Moore. I appreciate your answer on political will. I do not know how aware you are of the situation in Scotland. All directly employed and agency staff of the Scottish Government receive the living wage, but there is still some distance to go in local authorities, in respect of not only directly employed staff but local authority contractors. We need a bit of political will in Scotland to drive that change. Is that critical to driving culture change in the private sector in Scotland as well?

10:15

Rhys Moore: The experience in London has certainly been that the public sector can alter practices in the private sector. It is a matter of leading by example. It is much easier for the public sector to encourage and cajole the private sector into doing something if the public sector is already doing it. Another factor is the role that procurement can play in driving change in the private sector. In London, it has largely been an issue of responsible procurement rather than changes to directly employed staff.

Donald Hirsch: On the point about fuel costs, as well as our main research, which was based in urban areas, we have done research in rural England and we found that there were significantly higher costs—typically 10 to 20 per cent higher—in rural areas. Because people in those areas cannot rely on public transport, we have to take into account the fuel that is used by cars. Also, many people are not on mains gas and have to use heating oil or electricity, and some of them have hard-to-heat homes. We would expect that to be the case in rural Scotland as well, perhaps even more so.

On inflation, we are in difficult times. As you know, most people’s actual living standards are going down because wages are not going up in line with prices. In our academic work, we are committed to continuing to calculate what is happening to the real minimum cost of living and the wage that would be needed to cover that. However, we accept that there are scenarios in which the real minimum cost of living goes up by so much that it is unrealistic to ask private employers, or public employers that are funded by the taxpayer, to raise people’s base income through a living wage by way more than is happening elsewhere in the economy. As we explain in our submission, we have introduced a suggested cap on what we call the applied living wage so that it cannot go up too much faster than average wages are. In doing so, we have said that it is necessary to keep track of what is happening to real costs, so that it will be possible to catch up in better times.

The Convener: Rhys Moore talked about responsible procurement. Does that mean that the contracts specify that the cleaners, for example, will be paid the living wage?

Rhys Moore: Different public bodies have taken different approaches. The committee will be hearing from the GLA, which is probably better able to speak on precisely how that is achieved.

There is a spectrum that ranges from “This is something that we expect to see from our contractors” to “This is something that will be looked upon kindly because we see it as an important aspect of our responsible procurement strategy”. Some public bodies ask for two tenders to be submitted for every contract—one that has no provision for the living wage and one that is living wage compliant—and they make a decision on best value on that basis.

The Convener: Will you provide us with information on how public bodies are dealing with that and how successful the various approaches have been? It would be useful.

Rhys Moore: Certainly.

Bill Walker: Good morning, gentlemen. I am keen on the concept of the living wage and its implementation. However, the issue has been raised with me several times that when a whole family is living on benefits it is just not worth going out to work for an extra 50p or whatever an hour. Will the living wage be enough to encourage people—with a carrot and not a stick, I hope—to leave behind the cultural thinking as a result of which we have whole areas where people reckon that it is not worth working?

Donald Hirsch: Where that is the case, better wages can make a contribution, but they cannot always achieve that on their own. For many people, if their pay is put up by a certain amount, they will receive only a small amount. That is because there is a high dependency on benefits and tax credits, even among those who are in work. In some ways, it is depressing that raising people's pay will make them only a bit better off. However, I have two points about that. First, although the amount might not seem a lot, it is important if it takes someone to the threshold at which they have enough. In other words, for someone who is £2 short, getting that £2 can be important.

Secondly, one problem is that, in the past 15 years in the UK, we have for good reasons introduced tax credits and other in-work support of that sort to combat child poverty. However, in the process, we have created an excess of in-work dependence—the issue is not only about those who are out of work. There is a general consensus that we should start to move away from that and to redress the balance, not least because it is expensive for the public purse if most of the remuneration for some people who are in work comes from the state rather than from the private employers that pay them. The living wage will not achieve that on its own, but it is an important step in that direction.

Chris Goulden: The minimum income standard research on which the living wage is based provides an acceptable adequate level for the long term, but to tackle poverty and improve wellbeing, we need more tools than just the living wage. By definition, the living wage is an entry-level position. We need to increase people's opportunities through policies on skills and improving employer demand for higher-skilled work. It is important to consider the living wage as part of the bigger picture on poverty and progression.

Rhys Moore: The interesting thing about the living wage is that it is not just a single number—it is a commitment to raise the hourly wage rate over time based on the real cost of living. That makes a massive contribution to tackling the question that the member raises.

Margaret Mitchell (Central Scotland) (Con): Obviously, we all share the aspiration on a living wage, although Bill Walker raised concerns about how it works in practice. The extra from the living wage can be offset by a reduction in benefits, a removal of them altogether or higher taxes. We have heard that it will not alleviate poverty, but will you comment further on that? In households that are in the bottom three income groups, there might be combined wages, with someone on a relatively high wage and someone on a low wage. What is the effect of the living wage in that situation? To an extent, you have answered the question about the effect on poverty. Where people receive income not only from employment but from other sources, how much of an impact will the living wage have in addressing poverty?

The main issue that I would like to explore is the knock-on effect on third sector providers of the introduction of the living wage in local authorities. Third sector organisations say that they cannot pay the living wage because of the amount that they are paid by local authorities, which are having to find more funding to pay the living wage. How do we marry those issues? If more money is used to pay the living wage, is it inevitable that less will be available for service provision generally? How do we balance those competing priorities?

Chris Goulden: No single measure will by itself tackle poverty. There is always a risk that policy initiatives are siloed in departments. However, pay measures are a necessary and crucial part of a wider anti-poverty strategy. We would like a living wage as part of a wider anti-poverty strategy, not just for child poverty, but for all age groups. That is our ideal. The living wage is part of working towards that.

Donald Hirsch: On the point about households in which someone is on a higher wage and someone is on a lower wage, that situation means that there will always be an imperfect match between low pay and poverty. However, the introduction of a minimum wage was an acknowledgement that we must have some kind of standard. There will of course be households for which a living wage will not make a difference between their having an adequate income and not having one, because they already have such an income without that wage. That is just an imperfection. However, the idea of the living wage is that, in having a standard, it should at least be based on the amount on which someone can live if they have to survive on that and do not have income from elsewhere, which is the situation for many people. Employers do not pay people according to their family circumstances. Therefore, we must have the living wage even though it will help people who, we might argue, do not need help. I do not have a problem with that, because the living wage also expresses the value of what those people produce.

Margaret Mitchell suggested that, for some people, it might be disadvantageous to earn more. It certainly can be very close to that although, technically, the system does not make it disadvantageous unless there are extra costs. The actual take-home pay will always go up, even if only by a bit. The UK Government is introducing a universal credit, which is controversial in many ways, but it will ensure that people keep at least about a quarter of what they receive. That is not very much in a way, but it means that, in principle, in no circumstance will people lose almost everything.

On the issue about local government and the third sector, dialogue is required between those two groups on how local government can facilitate the living wage in the third sector. However, we must accept that that is difficult in the present circumstances.

Rhys Moore: On the role of the voluntary sector, Margaret Mitchell identifies a real risk. That highlights the importance of the living wage not simply being something that the public sector does for its staff. In London, in the local authorities that are implementing the living wage, it is a matter of policy that, through their procurement and commissioning, a living wage will be rolled out across their boroughs. Often, it is voluntary sector providers that win that work. In London, we have always stressed that procurement and commissioning must be part of the living wage. The voluntary sector in London supports the living wage, and national bodies are also supportive.

Margaret Mitchell: There has been a tendency for contracts to be given to the third sector but at a price that means that it simply cannot afford to pay the living wage. That is a real concern in these times and it has not been addressed so far.

10:30

Kevin Stewart: I have two questions, the first of which follows on from Mrs Mitchell's comment that implementation of the living wage might impact on local services. Has any analysis been done in London that shows that, where the living wage has been implemented, the need for services has been reduced because people are earning a decent amount of money and do not need to rely as much on public services to cover their requirements?

Rhys Moore: I have not seen any such research.

Donald Hirsch: Not as such, but the £25 billion figure for the cost of child poverty that Chris Goulden mentioned earlier is based on calculations that rely to quite a large extent on the greater amount of money that is spent on services in small areas where the level of child poverty is higher. From that, one might infer that reducing poverty in those areas and making them more like other areas will reduce spending.

As has been pointed out, the living wage is only one part of a strategy for combating poverty and it would be very hard to say that it in itself would have that effect. What is for sure is that the living wage can contribute to a strategy for spending on fewer services that help people whose lives go wrong by ensuring that their lives do not go wrong in the first place.

Kevin Stewart: Spending to save, in other words.

Donald Hirsch: Yes.

Kevin Stewart: Secondly, many solicitors in public bodies around the country get themselves into a little bit of a fankle over European Union procurement rules. Rhys Moore said that a number of authorities in London had put out two tender documents. Where that has happened and a contract has been awarded, have there been any challenges by any other body?

Rhys Moore: No.

Mark Griffin: I, too, have two questions, the first of which is for Donald Hirsch. In your submission, you say that different demographic groups were surveyed on the minimum income standard. Was any such work carried out with young people still living at home? Are you suggesting that the living wage be tiered in a similar way to the current minimum wage?

Donald Hirsch: It is a big thing to try to cover the needs of different demographic groups and, generous as our funders have been, I am afraid that we have not been able to survey that particular group. However, it is on the agenda.

Mark Griffin: My second question is for Rhys Moore. How difficult would it be for the Scottish Government to set up a living wage unit to drive the policy through the whole of the Scottish public sector?

Rhys Moore: Again, speaking from the experience in London, I think that it has been extremely helpful to have a body such as the Greater London Authority providing leadership on this policy and driving it forward. Given the way in which the GLA has taken on board the calculation and started doing all this, I can see the Scottish Government playing a similar role as one aspect of what a living wage unit could do here.

The Convener: With regard to the general framework for tackling poverty, the number of hours that public sector workers alone work varies from 35 right up to 40. How does that impact on your calculations with regard to an hourly rather than an annual rate?

Donald Hirsch: We based our calculations on a 37.5 hour week because the unions and others to whom we have talked have said that that is the most common figure used in negotiations. Obviously people's actual hours vary a lot, but we had to choose a figure and that is the one that we chose.

The Convener: We are comfortable with that figure and think that it is reasonable.

Chris Goulden: The figure is worked out on an annual basis. You could, if you wanted to, work it out on different bases, depending on the hours, but it becomes confusing to have different variants and it is best to stick to something reasonable.

The Convener: As members have no further questions, I thank the witnesses for their very useful evidence.

I suspend the meeting for a changeover of panels.

10:35

Meeting suspended.

10:38

On resuming—

The Convener: I welcome our second panel: Peter Kelly, director of the Poverty Alliance, and Dave Moxham, deputy general secretary of the Scottish Trades Union Congress, who are giving evidence on behalf of the Scottish living wage campaign; Annie Gunner Logan, director of the Coalition of Care and Support Providers in Scotland; and Nick Waugh, policy officer for the Scottish Council for Voluntary Organisations.

Will the panel put the living wage campaign into a Scottish context? What are your thoughts on where we are with it?

Peter Kelly (Scottish Living Wage Campaign): Thank you for the invitation to give evidence. We welcome the initiative that the committee has taken in conducting the inquiry.

The Poverty Alliance, the STUC and the Church of Scotland established the living wage campaign in 2007. Since then we have gradually built up the case for a living wage in Scotland. We have been inspired in many ways by the developments in London.

The campaign came about because of the continued problem of in-work poverty. Your previous witnesses made clear the reasons why that is still a big issue. We wanted employers in Scotland to take more action to address in-work poverty.

We have made significant progress over the past four years on the idea of the living wage and on the problem of in-work poverty and how we might address it. The living wage is one way of addressing the problem. As we all know, the Scottish Government has shown significant commitment to the living wage by ensuring that all directly employed members of staff are covered by a living wage, as have the national health service in Scotland and a number of Scottish local authorities.

That represents good progress for the campaign. We need to consider how we widen out the campaign, so that employers who can pay better do. The important point about the living wage is that it is not the minimum wage. We are not looking for an increase in the statutory minimum wage; we are looking for employers who can pay more to do better.

Dave Moxham (Scottish Living Wage Campaign): Over the period in which the living wage campaign has developed in Scotland economic circumstances have changed significantly. We are in a somewhat paradoxical situation in which the need is greater but the resources are probably fewer. It is a situation that the campaign acknowledges but which redoubles our absolute commitment to ensuring that as we live through this recession—or rather, crisis, but possibly soon to be another recession—and move over the next couple of years into a period of stability and growth, the living wage campaign will be ready to take advantage of what we hope will be improved economic conditions.

Annie Gunner Logan (Coalition of Care and Support Providers in Scotland): The Scottish context is the Scottish National Party Government's strong support for the living wage, but the third sector's concern is that the support appears to be limited to the public sector. In our submission we say that we support the living wage in the public sector but our fear is that unless procurement is addressed at the same time the living wage in the public sector will come at the expense of other public service providers and not along with them.

Nick Waugh (Scottish Council for Voluntary Organisations): Broadly speaking, the campaign has not been terribly focused on the voluntary sector as employers during the past four years. It has very much focused on the public sector, for strategic reasons. That seems to be changing. As Annie Gunner Logan said, there is wide support for the living wage campaign in the third sector, in the context of not just procurement and how it affects charities that take public sector contracts, but the third sector as employers.

Kezia Dugdale: Convener, may I ask a question of each witness? The panel is varied and people might comment on what others have said. Perhaps Peter Kelly will talk a bit more about the difference between the living wage and the national minimum wage, in relation to not just the amount but the policy. Is the living wage about economic justice in the labour market, or does it mean more than that?

Will Dave Moxham say whether the Scottish Government should do more to drive the living wage through local authorities and through procurement? If so, how? What does the STUC want to see?

The briefing that Annie Gunner Logan provided was excellent, because it highlighted key barriers to the delivery of the living wage in the voluntary sector. I was struck by your comment that if we are not careful a "three-tier workforce" could develop. You also said that, for many care providers, wage costs

"account for up to 85% of the total cost"

of the support that they deliver. Therefore providers are highly susceptible to the cost of the living wage. Will you expand on your opening remarks? Would you welcome the inclusion of living wage clauses in procurement contracts, to create a more level playing field and remove barriers?

My final question is for Nick Waugh. Is there a unique problem for the care sector or does the issue equally affect other aspects of the voluntary sector?

10:45

Peter Kelly: I will expand on my opening comments. There is a significant difference between what the national minimum wage is about and the living wage and what the living wage campaign is trying to do, although they are obviously related.

From about 1994 to 2001 I worked for the Scottish Low Pay Unit, and campaigning for the national minimum wage was central to what we did. The wages councils, which were the old form of wage protection, were abolished in 1993 and for many low-paid workers wages stagnated and, in some cases, went into free-fall. People frequently came to the unit to ask what they could do about a wage of, for example, £1.50 an hour for a security guard. Such stories were commonplace.

The minimum wage outlawed such exploitative pay rates and set a legal floor to wages. The principle that no worker should be paid less than the legal floor is an essential piece of the architecture of the labour market in the UK. The living wage campaign in no way seeks to undermine that floor and we need to be mindful of questions about the adequacy of the minimum wage. That is important.

You mentioned economic justice—in the workplace and in general. I think that that is what the living wage tries to deliver. In Scotland, the UK and globally levels of income inequality have risen. One of the drivers of the rise is the growth in incomes at the higher levels while wages at the lower levels have tended not to increase at anywhere near the same rates. The living wage can start to bring an element of justice, where employers have the resources to do that.

I am mindful of what my colleagues from the voluntary sector said. I have been a voluntary sector employer and I understand the funding pressures that we are all under. The living wage is about increasing pay for workers on the bottom rungs of the pay ladder, in organisations in which employers can reprioritise resources to ensure that the people at the bottom benefit. I hope that I have answered your question.

Dave Moxham: As Peter Kelly said, the Scottish Government's intervention during recent years has been positive and helpful, broadly speaking. We think that the Scottish Government has—how shall I best describe this?—variable powers of persuasion over the Convention of Scottish Local Authorities and local authorities; sometimes it chooses to engage more proactively than at other times, from our experience in various discussions. We want the Scottish Government to be as proactive as possible in how it dictates its relationship with local government in relation to the living wage.

There will be a sustainable procurement bill. It will not be a simple matter to put into the bill presumptions in relation to the living wage, but we do not think that it will be impossible for the bill to contain significant and helpful references to living wage outcomes. We will be looking to engage with the Scottish Government in the process.

There are bits of guidance out there already, in particular in relation to how local authorities treat procurement. The key area is the guidance under section 52 of the Local Government in Scotland Act 2003, under which proactive activity by Government to ensure that terms and conditions are respected in relation to transfer of undertakings can have an effective impact today, tomorrow and in future.

Annie Gunner Logan: You discussed responsible procurement with the previous panel and we would welcome living wage clauses in procurements. From our perspective, social care procurement has been anything but responsible. Pretty much everyone involved recognises that it has been very significantly cost-driven, so last year the Scottish Government joined with COSLA and a number of the rest of us to produce social care procurement guidance to address precisely those questions.

To be fair to local authorities, it is difficult to pin down quality in social care as part of the paper exercise that you have to conduct to comply with procurement regulations. It is difficult to test quality or a provider's capacity to deliver it. Inevitably, proxies are used for that. We would say that staff pay is a good place to start, given the nature of the business that we are in, which is very much about the quality of the relationship between the supported person and the person who is supporting them.

A living wage would be a good place to start, but I do not want us to lose sight of other terms and conditions. Particularly in social care, there are a number of private sector providers that, for example, will not give paid sick days to staff in care homes for the elderly. That strikes me as a pretty good recipe for disaster, as the people with whom those staff will be dealing are susceptible to infection. We would also flag up workforce development. We have a strong agenda in favour of qualifications, training and the registration of a professional workforce in social care, which has cost implications.

I want to impress on the committee the idea of equity not necessarily for staff, but for citizens. At the moment, someone who is supported by social care services might be in a local authority-run place where the staff who deal with them have a certain level of pay and conditions and everything that comes along with that, or they could be in a private or a voluntary sector place, in which the staff who are supporting them are rewarded at a much lower rate. There is a fundamental issue of equity for citizens in that regard, which is why, a number of years ago, we joined with the SCVO, the STUC and various unions to get across the message about parity in the public service workforce, as opposed to the public sector workforce. Obviously, that has cost implications. As our submission shows, there are increasing numbers of voluntary sector providers who have pay levels that are below living wage thresholds, particularly at the starting end of the scale. Three years ago, they were not below that level but they have slipped below the threshold because they have stood still.

There are ways to address that, especially through procurement. I echo what Dave Moxham was saying about the opportunity that is provided by the proposed sustainable procurement bill, which I think is on the cards for next year. Section 52 of the Local Government (Scotland) Act 2003 provides another good opportunity, as it could beef up some of the Transfer of Undertakings (Protection of Employment) Regulations that already apply. We are not only talking about situations in which staff transfer between one provider and another. Introducing living wage clauses across the board would also take some of the heat out of the competition element. You might well ask why voluntary organisations would bid so low. The answer is that, if they do not, they might have to walk away from people whom they have been supporting for 20 years, in some cases, and other employers—who would not necessarily support a living wage, left to their own devices—would take over, which could result in poorer quality care.

Nick Waugh: To the question whether the problem exists only in the care sector or throughout the third sector, the short answer is that we do not know. We do not have detailed statistics on pay in the third sector; the most recent figures are from 2008-09. I would say that it is very likely that a significant minority of employees across the third sector are affected. They are probably concentrated in the social care sector because of the specific circumstances related to social care procurement and because of the nature of the work. However, other parts of the sector are affected, too.

In the share of public sector funding that is divided up within the third sector, just over half goes to social care. There is also a kind of smörgåsbord of other sectors within the third sector, covering things such as educational research, healthcare and economic development. They do not get more than about 12 per cent, or 6 per cent or 8 per cent, of the overall pot of public sector funding that goes to the third sector. It therefore stands to reason that the impact of the issues that Annie Gunner Logan spoke about will be less within those charities, but will still exist.

Kezia Dugdale: I welcome Annie's support for the use of living wage clauses in procurement and, in the documents that you provided to the committee, I was interested to read your view that, if more action is not taken now, the problem of a three-tier system might be exacerbated. Do you agree that more political will is needed to drive change through local authorities, by means of procurement contracts, out into the private sector? If that does not happen, some of the existing problems might get worse. It may become harder for voluntary sector organisations to get local authority contracts and to continue their work. You have suggested that there is plenty of evidence that, when voluntary sector organisations provide care, they sometimes do it better than the public sector. The witnesses' organisations would want such work to continue.

Do the witnesses support the creation of a living wage unit by the Scottish Government? Do they agree that an important role of that unit would be to map low pay across Scotland, if detail is lacking on the varying levels of pay?

Annie Gunner Logan: I absolutely agree about the living wage being extended through procurement to the voluntary and private sectors. Our present mixed economy is the result of the policies of successive Governments, of every flavour, at UK and Scottish level. The purchasing authority has a structural advantage in the labour market in relation to its in-house services. That is where difficulties start to arise.

If the living wage is not extended through procurement, the first issue is that the living wage in the public sector will come at the expense of the others. The second issue is that there will be a continuation of what one of my colleagues in the next panel of witnesses has referred to as a "race to the bottom". In a mixed economy, is it reasonable for employers and bidders to set the floor? That might be viewed as cartel behaviour—"We are going this far and no further." In our association, we have endless discussions about where the line in the sand is for a particular hourly rate. That way disaster lies, with competition law and all the rest of it.

There will always be providers who want to come in, undercut and get contracts—especially private sector providers. If you, as a commissioning authority, include a clause in the procurement notice to indicate a line in the sand with which everybody has to comply, then all the heat is taken out of the situation.

Nick Waugh: We would absolutely support a living wage unit within the Scottish Government, and we would be more than happy to work with such a unit to map pay across the third sector.

Peter Kelly: The submission from the living wage campaign makes it clear that we are in favour of a living wage unit within the Scottish Government. Rhys Moore spelled out clearly the importance of having such a body to make recommendations. We have also suggested the mapping role that has been mentioned. The campaign has made a couple of attempts to map low pay in Scotland using the official published statistics. That sort of thing is quite difficult for us. To obtain an accurate picture of the situation across Scotland, the unit could play a crucial role.

In the four areas identified for action in the Scottish Government's anti-poverty framework—"Achieving Our Potential"—the first is tackling income inequality. There is the solidarity target. The first area of action within that priority is making work pay—tackling in-work poverty.

As I think that the Scottish Government would admit, it is difficult for it to deliver on that commitment, even though that strategy is about three and a half years old. A living wage unit in the Government would help to deliver that part of the Scottish Government's continuing commitment to the "Achieving Our Potential" framework. To have that established is an essential part of the process of spreading out the living wage not just to local government but much further to the really problematic areas of the labour market.

11:00

Dave Moxham: All the reasons have been covered. You will not be surprised to know that I, too, support the establishment of a unit.

Kevin Stewart: After Dave Moxham's comments about the Government, COSLA and the powers of persuasion—or lack of them—I thought that I would take the discussion back to single status. In a number of local authorities, equal pay and modernisation have been used as reasons not to implement the living wage because of the fact that there are on-going pressures on all of the pay scales above. Could we have comments, from Dave Moxham and Peter Kelly in particular, about that point and whether it is a myth or reality?

Dave Moxham: I will be relatively brief because a similarly but not identically named man called Dave Watson is sitting behind me, and I assure you that he will bring far more light to the detail of the situation than I can. We have been aware of a number of cases in which the examples that you mentioned have been cited, and we have yet to be convinced that there is much basis in fact for their being an impediment to the implementation of a living wage. However, as I said, you would be far better listening to the other Dave on that in about 10 or 15 minutes' time.

Kevin Stewart: I will follow that up with another question—I will probably ask the other Dave the same thing. [*Laughter*.] Is there any example of challenges by workers further up the scale in a local authority in Scotland where the living wage has been implemented?

Dave Moxham: No.

Bill Walker: My question is probably only to Nick Waugh. I am very much in favour of the living wage and I hope that we can get an equitable system working, but I will play devil's advocate for a minute. In my patch of Fife, we have lots of voluntary organisations, including a number that use unpaid volunteers. Those volunteers are not just the comfortable middle classes who are semi-retired; they include thoroughly decent people of lesser means who want to help. This is my devil's advocate question: will a proper living wage not just encourage some voluntary organisations to look more towards their unpaid volunteers who are happy to help out, who could perhaps do people out of a paid job?

Nick Waugh: If that was the case, that pressure would already exist, as we already have a split in the third sector between paid employees and volunteers. I do not think that the living wage would create a huge pressure. From the evidence that we have seen—the examples are anecdotal—the low pay in the third sector that is below the living wage is fairly close to the living wage. It is not an enormous amount below it.

Generally speaking, therefore, the costs of implementing the living wage would not be enormous. For some charities, they would be enormous, but everything depends on how far below the living wage the pay levels are at the moment and how many staff they have. The issue exists already, and charities have met an equilibrium between what they can deliver with the money that they have and what they need from volunteers and the number of volunteers available to them. Volunteers come forward to the charity; it is not the other way round.

Bill Walker: It is just that—I am thinking maliciously—charities might go out looking for qualified unpaid volunteers if they cannot make ends meet because there are pressures coming down on them.

Nick Waugh: The likelier source of pressure on that scale would be through funding problems. That is happening anyway, irrespective of how much the charities pay their staff.

The Convener: Peter Kelly wants to comment.

Peter Kelly: That is an issue but it has been an issue since the introduction of the minimum wage. Similar concerns were raised when the minimum wage was introduced. Employers cannot use voluntary staff in that way. There are clear definitions of who is a worker and those would apply whether or not an employer was nominally a living wage employer. That is where the legal context comes into play in respect of the minimum wage. If employers, whether in the public, private or voluntary sector try to get around minimum wage legislation or their alleged commitment to being a living wage employer, they would be held to account in that way. The living wage would not increase that pressure unnecessarily.

Dave Moxham: I know that you are asking a devil's advocate question, but it is important not to overemphasise the supposed willingness of voluntary sector organisations to dragoon volunteers in the way that Bill Walker describes. We have clear agreements with voluntary sector providers at workplace level and at national level about what constitutes job replacement. I would expect those agreements to hold relatively firm in the context that you describe.

Margaret Mitchell: Good morning, everyone. My question is primarily for Annie Gunner Logan, but if anyone else wants to chip in that would be fine. Your submission gives a good and detailed explanation of local authorities' responsibility

"for managing the 'mixed economy' for care services, which includes in-house service provision delivered directly by staff employed by local authorities".

It outlines how local authorities

"enjoy, in effect, a structural advantage in the labour market"

due to the generous conditions and packages available to their own employees and as contracted employers.

You cite examples that show that when the contract is in-house the rates of pay can be double, despite the fact—this is the crucial point—that the voluntary sector service is often demonstrably of a higher quality than that which is offered by an in-house local authority provider. Even if the living wage were applied to the third sector, given the quality of care that it can provide, would there still be a conflict of interest when it comes to a third sector organisation being able to be the preferred provider?

Annie Gunner Logan: The hourly rates for services that we included in our submission are the lowest and the highest. The lowest rates, the £10.43 hourly rates, tend to be paid by private sector providers giving care at home—domiciliary care—for older people, while in-house costs are invariably 100 per cent more than that.

In the range between £10.43 an hour for care at home from a private company and £25 for a local authority in-house provider, the voluntary sector sits somewhere in the middle at around £15 or £16 an hour; however, its quality scores are much higher. That tells us that we can chuck money at something and not make it better, but we can take money away from something and make it worse. That is the issue.

Our support for the living wage is not necessarily about bringing up current workers to the point at which the living wage applies; it is about protecting workers in the voluntary sector who are already on or above the living wage, so that we do not get further involved in racing down to the bottom and have only national minimum wage legal protection. Our belief is that the quality would start to suffer but, because quality gradings are inevitably a lagging indicator, that would be found out only after the event.

That happened in residential childcare a long time ago. There were very poor standards, all kinds of scandals and massive reports about the situation. One of the biggest issues to emerge from that was the way in which staff were recruited and rewarded, their terms and conditions and the way in which they were supervised and developed. We do not want that situation to emerge again in adult and older people's care. We can learn from other areas of care and try to protect workers who support people now rather than wait another two or three years and realise that, by removing money, we have made things worse. That is staring us in the face.

Margaret Mitchell: Thank you for those comments, but my question is really about quality. If there were a level playing field, would there still be an advantage for local authorities in awarding themselves the contract in-house?

Annie Gunner Logan: Oh, I see. There is not a purchaser-provider split in the way that there was in the NHS, for example. Local authorities do not have in-house teams that bid. A decision is simply made at local authority level that certain services will be provided in-house. Local authorities are not competing with one another in the same way.

The procurement exercises that I refer to in my submission are purely a matter for voluntary and private sector providers. The procurement process is not generally applied to in-house services—a decision is simply taken that the services will continue to be provided by in-house teams. There is not a bidding process and local authorities are not awarding themselves the contracts. They are removing in-house teams from the bidding process, which others then have to go through. It could be argued that that is even more unfair than any other way.

Margaret Mitchell: More research could be done on service provision, given that the bottom line of any local authority is the providing of the service. That is key to everything.

Annie Gunner Logan: Yes, and decisions need to be made on the basis of the legal obligation that is already in force for local authorities—best value. A balance is needed between the cost of a service and its quality. In a number of cases, services continue to be delivered in-house at a higher cost even though there is no evidence that the quality is commensurately superior. That is the issue. In Scotland, there is still a reasonable amount of in-house service provision. In England, there is not. Most of England's social care services have been contracted out.

Some local authorities have no in-house services left at all and others have up to 50 per cent. When you look at the figures dispassionately and see the quality gradings from the inspectorate and what the cost is, you can draw your own conclusions.

Dave Moxham: There is an in-depth discussion to be had about procurement contracting and its potential effect on our mixed landscape of care.

I wanted to focus on the implication, which is reflected in some of the written evidence, that commitments from local authorities to pay the living wage to direct staff would have an enormous and disproportionate effect on funding. We are still talking about relatively small amounts of money. I do not have the figures with me, but if you look at Glasgow, which was the first local authority to pay a living wage, you will see that we are talking about figures in the hundreds of thousands of pounds rather than millions. That is not an enormous sum in a budget as big as Glasgow City Council's.

I would be concerned if we were to move into a discussion that implied that the simple straightforward living wage commitment being delivered directly on behalf of local authorities would have a massive skewing effect on funding. Plenty concerning factors are impacting on the funding of voluntary sector services, but the direct payment of a living wage by local authorities is not one of them.

Kevin Stewart: In Aberdeen City Council, where folks are paid just below the living wage, implementing the living wage was going to cost a couple of hundred thousand pounds. Dave Moxham is absolutely right to say that that is not a huge amount. The difficulty was that some of the advisers said that the figures would have to be adjusted accordingly right up the scale to comply with single status. That myth is now being broken.

I have one further point on in-house bidding. Sometimes, in the past, in-house teams have bid for work in various councils and have inevitably won on best value. It is therefore unfair to say that there is protectionism in in-house provision in certain places. In a lot of cases, the council has looked to see whether it is worth contracting out.

Margaret Mitchell: The key word is "sometimes". We are looking for best practice for local authorities and the area is worthy of more investigation to see how we can deliver the very best on a level playing field.

11:15

David Torrance: My question is on direct payments. I am a member of Fife Council, which has gone down the road of giving out more direct payments to individuals. When those individuals have bought their services, the third sector and the council have lost out drastically to private companies. How do we go about changing that situation? Those individuals can choose who they bring in to supply their services.

Annie Gunner Logan: We raised that issue at the end of our submission. Throughout Scotland, relatively few people, proportionately, are in receipt of direct payments. The figure is somewhere between 3,500 and 4,000 people. Some of those people choose to buy in services from a provider that sets the pay and conditions of its staff, but a number of them, in effect, employ their own staff—their own personal assistants. The terms and conditions for those individuals tend to be set in accordance with the amount of the direct payment that is allocated to the individual. Invariably, the figure for the direct payment as an hourly rate will be lower than an hourly rate that is paid to a registered service provider.

People can now buy their services in-house from a council if they want to do that. The question for the individual is, "Given that I have this much money, how far can I make it go?" As it is for any other commissioning authority or purchaser, the temptation for the individual is to make the money go a bit further. When someone employs their own personal assistant, there are huge issues of choice and control, because they call the shots.

Nobody would argue with the principle of direct payments; in fact, we are very supportive of it, but it leads us to the conclusion that there will be a third-tier worker, who will probably be on the minimum wage not a living wage. Procurement regulations will not help, because such services are not subject to procurement regulations, so we must look at how we can build in some protection for personal assistants without necessarily chucking the baby out with the bathwater and saying that, because of this issue, we will not allow people to employ their own staff and have choice and control over their services. That is quite a sensitive balance. Given that individual employers have responsibility, it is probably a much more sensitive situation than the one that I have talked about around voluntary sector employers.

I do not want the committee to think that the living wage is where it is all at and that for employers the living wage is becoming the benchmark, because in social care there are some big issues around the minimum wage. Some of the lower rates that are paid by authorities for care do not include, for example, travelling time when people visit different clients in their own homes. Staff are paid for the time that they are in their client's home, but not for the time that it takes them to get from one client to another. If that travel time is included, some people are now being paid below the minimum wage rather than the living wage.

In the voluntary sector, a number of providers are coming under pressure to extend what we call a sleepover. That is when a support worker stays overnight with a client in their home, because the client might wake in the night and require support. Sleepovers have traditionally lasted for about eight hours, but many authorities are now putting providers under pressure to make that nine or 10 hours without increasing the rate. In some cases, that will push people to minimum wage contravention levels rather than living wage contravention levels. I do not want to depress everybody too much on a Wednesday morning, but that is where we are. Low pay is not unconnected with the issue of personal assistants.

Mark Griffin: How do we get people to focus on the point that, rather than pay someone a lower hourly rate for more hours, they should pay the living wage because that will drive up the quality that they receive from their staff? The race to the bottom on pay has been mentioned. We should emphasise that the living wage will increase the quality of service that people receive.

Annie Gunner Logan: CCPS's position is that we need to get away from commissioning at an hourly rate for services and start to look at what outcomes people want, the sum of money that is available, and the best way to spend that money to achieve the outcomes for the individual. Direct payments have traditionally been paid at an hourly rate—a low one, at that—and they have to be accounted for using an hourly rate. If there was an annualised budget of £15,000 or £20,000 and the person wanted to spend their personal budget on something that was very good but slightly more expensive, they could do that. They would be able to pay £20 an hour if they wanted to do so; they would just get fewer hours. If they wanted to make the money go further and pay only £10 an hour, they would get more, but perhaps that would not help them to achieve the outcomes that they wanted.

I hope that the self-directed support bill, which will be introduced to the Scottish Parliament after Christmas, I think, will address that matter. It will not simply be a question of direct payments at an hourly rate; it will be a question of self-directed support. A person will not have to take the money, spend it as a purchaser and then account for it in units; rather, they would have a discussion with their social worker and their supporter about how they wanted that money to be spent, which could leave them the freedom to spend it on something more expensive that would get them what they wanted. It is the flexibility that is important.

Peter Kelly: We have been asked about how we can make the argument. I take us back to the role of a living wage unit that advocates around the issue and raises the tempo of the debate about in-work poverty and low pay in general.

Annie Gunner Logan has made a crucial point that we should not forget. She made an incredibly important point in her submission about where the minimum wage is under threat. That is almost a bigger issue than the living wage. Low pay is becoming more of a problem, and it is returning to being a significant issue. The introduction of the minimum wage started to reduce levels of low pay, but that has stagnated as the increase in the minimum wage has stagnated, since around 2006. That issue is therefore back on the agenda, and that is the reason that the living wage has to some extent captured political attention.

A living wage unit could be the source of advice to employers and people with self-directed support about how to be the best employer, although I know that the relationship is not the same. When Glasgow City Council introduced its living wage policy, it took quite a proactive role in trying to spread it out to the private sector. It probably could have done more, but it took important steps in establishing its own living wage campaign, which more than 130 employers in Glasgow signed up to, I think. That was a commitment to the idea that low pay is unacceptable and that they would do something about it, and that was quite important.

Alongside the technical debates about how we can implement a living wage, there is the question of how we build the argument for it. It is heartening to hear that, so far, all the committee members, I think, have said that they welcome the living wage initiatives, and the Scottish Government is committed to tackling in-work poverty. The question is how we can spread out that commitment and get employers beyond the public sector—even beyond the voluntary sector—to buy into the living wage and see that it is realistic and can be implemented.

The Convener: As members have no further questions, I thank our second panel very much. There will be a suspension to allow members of the third panel to take their seats.

11:24

Meeting suspended.

11:29

On resuming—

The Convener: I welcome our third panel, who represent the trade union sector: Dave Watson is Scottish organiser of Unison; Pat Rafferty is Scottish secretary of Unite; and Danny Williamson is industry officer with the Public and Commercial Services Union. We have received apologies from Alex McLuckie, who is senior organiser of the GMB.

The witnesses have sat in on much of the discussion that we have had this morning. We want to pin down the arguments about single status, which is a key issue. Employers say, “We would love to implement the living wage, but we’ve just gone through single status and the trade unions will be on us like a ton of bricks, demanding that every level is uplifted.” Will you comment on that area, which it is important that we address?

Dave Watson (Unison): I think that I was volunteered—and not for the first time—so I will kick off. If I had a pound for every time that some employer had said that the unions would come down on them like a ton of bricks, I would be very rich indeed.

There are many complicated areas to do with equal pay. This is not the place for us to set out legal strategies, but perhaps I can deal with some of the myths around the living wage that are used as an excuse in a number of areas. Equal pay and single status are wheeled out in that regard.

The living wage is introduced by employers, be they councils, the NHS or anyone else, in two main ways. First, it can be done by collapsing increments. In other words, an increment—usually the bottom increment—is taken away. That is how it was done by the NHS in this year’s pay deal. The Scottish Government simply said, “No health board will pay the bottom increment of the scale.” That is a normal way of doing it. If the living wage is introduced in that way, there is no potential for an equal pay challenge, to put it simply. There might well be a narrowing of differentials, but that does not give rise to an equal pay claim. In essence, there would be people of different gender who would be paid on different rates but nobody on a lower grade would be paid the same or more than a person on a higher scale.

The second way of introducing the living wage is through top-up payments. In other words, there would be supplementary payments on top of the increments for the post, to bring the wage up to £7.15—now £7.20—per hour. In those circumstances there is a theoretical legal issue—we might come to the issue in relation to procurement. A local authority lawyer would be duty bound to point out even the theoretical risks—I am a lawyer and we often get asked what the legal implications of something are.

There is an obvious theoretical risk. For example, you might have a road worker on grade 4 who was not getting the supplement, while a cleaner on grade 1 was getting it. An equal pay case can be made on bonuses, supplements, or any part of the pay package, rather than the total pay package, so there is a theoretical legal challenge on that basis. However, that is not enough: the person must be able to argue that the reason for the difference is that the issue is tainted by sex discrimination, under the provisions of the Equal Pay Act 1970.

A defence that can be used in those circumstances is that there is a genuine material factor, which is untainted by sex discrimination. If someone asks me what that might be in a living wage case, I might say, “Well, the objective justification”—an objective test must be applied—“might be that the council has a policy to eradicate wage poverty,” for example. I would also argue that any difference would have to be proportionate. Bear in mind that in the main we are talking about very small payments indeed to very low-paid staff on grade 1. I would argue that a living wage policy would be a proportionate response to the council’s strategy. I would also point out that the grade 4 road worker was still getting a significantly higher salary than the person on grade 1, and I would argue that the living wage policy might also tackle the pay differences that are historically caused by gender segregation in the workforce.

I have thrown out four clear defences that might be used. All I am saying is that there are theoretical risks in the area but in practice they are not large and in our view they are too often used as an excuse for not promoting a living wage policy.

The Convener: Do Pat Rafferty and Danny Williamson want to comment?

Pat Rafferty (Unite): Dave Watson answered the question comprehensively and I would have little to add.

The Convener: Do you agree with him?

Pat Rafferty: Yes, we fully support what he said, in every way.

Danny Williamson (Public and Commercial Services Union): We mainly represent workers in central Government, not local government, and the issue has never come up in the way that the convener described. However, I recognise everything that Dave Watson said as the arguments that we would make if we were in the same situation.

Kevin Stewart: Dave Watson says that equal pay and single status are sometimes used as an excuse, which is probably what it is, on a lot of occasions. However, are we a little bit risk averse in that regard and, if there were more discussion with the trade unions in certain quarters, would we get the answers that are required?

Dave Watson: I am bound to say that I have not often been asked to advise on the living wage in terms of the equal pay arguments. Much more commonly, the issue is raised in relation to procurement and the legal issues around that area. There is more caution around that than there is on the equal pay front. People who understand the equal pay area can quite quickly come to solutions, so that is not a huge problem. With regard to procurement, however, there is a huge amount of risk aversion, particularly among my legal colleagues across the public sector.

Kezia Dugdale: What is the role of the Scottish Government in addressing the barriers to your ability to use procurement to deliver the living wage? Do we need more political leadership from the Scottish Government to drive forward the living wage? Do the witnesses support the establishment of a living wage unit? Might that be used as a mechanism for mapping low pay across the country?

Dave Watson: The first thing to note is that such decisions involve a number of areas in which there is cautious legal advice, for the reasons that I have indicated. Whether you are a Government lawyer or a local authority lawyer, you are inevitably duty bound to point out to the minister or the council the range of risks in that procurement area. We need to understand that, in my view, there are some largely theoretical European Union procurement issues in relation to that. It would take too long to spell out some of the reasons for not doing it that have been spelled out to me.

To go back to first principles, one of the bases of European law that has fed into our procurement regulations is the idea of the purposive approach to legislation, which is a bit different from our traditional Scots law approach to legal interpretation. What that means, essentially, is that we must consider the purpose of the EU’s passing of the regulations, which was to provide a level playing field. If you are specifying that the living wage should apply in a particular circumstance, that applies to everyone who is bidding for a particular contract, which means that there is a level playing field.

Even putting aside the legal issues, you should not underestimate the value of expectation and best value in procurement. Some of the previous witnesses have spoken about the usefulness of that.

The Scottish Government can do a number of things to help in this area. One is that it can sharpen up the procurement guidance. For example, we have been very critical of the social care procurement guidance. It missed out some important areas as well as some basic current Scottish Government advice. That has been one of the causes of the race to the bottom in that area. The Scottish Government has been talking about promoting section 52 guidance, which is statutory guidance, for the past three years but, frankly, we have made little progress in those discussions, which is something that we have flagged up to the First Minister on a number of occasions.

The second area involves expectation and the promotion of good practice. That is where the living wage unit comes in. The evidence from London and elsewhere demonstrates the value of having such a unit, and anyone who, like me, has worked in central Government will know the value of having a unit that can have an input into policies at an early stage. Just as the equality unit in the Scottish Government keeps an eye on policy at an early stage to ensure that equality issues are identified, a living wage unit can not only do the sort of research that Dave Moxham and Peter Kelly were talking about earlier, which is valuable, but ensure that living wage issues are considered when policy is being made. That would mean that when procurement guidance is being drafted, someone in the system would be arguing the case for issues around low pay, as well as addressing those issues by going out into the private sector.

There are 350,000 workers in Scotland who are getting paid less than the living wage. Important though we believe the living wage is for our members in the public sector, it is also important for our members in the private and voluntary sectors and for those who are not covered by any of the existing agreements. That is the next stage of work around the living wage, and that requires a unit and better procurement guidance.

The Convener: Danny, do you have any thoughts on that?

Danny Williamson: Yes. I support the idea of a Scottish living wage unit, for which I think that Dave Watson has made the case. I would add the point about a signal of intent. If the Government set up such a unit, it would be saying that the living wage is an important policy that it wants to see go beyond its own boundaries and areas of influence into the economy in general. That would be a positive step to take.

Pat Rafferty: I fully support the idea of a living wage unit. Procurement is key in trying to expand the living wage, as Dave Watson said. Some 77 per cent of Scottish workers work outside the public sector. It is about how we move the living wage from the public sector into the private sector to create a level playing field. The previous panel touched on the difficulties that arise in the tendering process. One approach that we can see working is sectoral bargaining in sectors of the economy in which we have devolved powers. That happens in 15 EU countries, where it works very well.

Bill Walker: Good morning, gentlemen. I want to get back to EU procurement, which, I guess, more involves the private sector but does influence the public sector as well. I know that we have EU procurement rules to create a level playing field and a common market. However, that can work against us in Scotland. If everything goes out to European suppliers, that can act against local businesses and local authorities, which in my opinion should properly be tied to the living wage—although they would not be able to compete because of EU procurement competition requirements.

Do you agree that we must look again at EU legislation and petition the EU—from Scotland but perhaps the rest of the UK should do so too—to change the rules so that we can support local businesses and authorities to implement better conditions and economic development throughout Scotland? It seems that EU rules sometimes act against us.

Dave Watson: There are some challenges, but often they are exaggerated. There are issues when it comes to reviewing European legislation, particularly in the area of public services. For perhaps the past four years there has been a debate in Europe about how we might define public services in the context of EU competition rules, but insufficient progress has been made on that. It is slow work in Europe, as you will be aware. If we get that definition right, we might deal with some of the difficulties that occur here.

Recent decisions of the European Court of Justice have caused difficulties in one or two areas in relation to procurement. We have had issues with the posted workers directive, which is another area in which there needs to be some review.

We have argued at European level through the European Trade Union Confederation for a comprehensive review to work out what we are trying to achieve and then get the definitions right on that basis.

Having said all that, I do still think that we worry overly about the practical impact of some of the directives and the way that we apply the regulations in Scotland. Some of the risks involved are more apparent than real. I would not say that we could get round them, but we could certainly use a bit of imagination in that regard, although I would not spell out in too much detail before the committee how that might be done. There are a range of ways in which we could use a bit of imagination to keep within the European regulations and still meet the economic objectives that the Scottish Government and public authorities in this country would want to meet.

Bill Walker: I have a brief supplementary on that. There is huge bureaucracy involved, certainly in the private sector—and I am sure that the same applies in the public sector. Of course we do not want to get round the rules, but it always seems to me that there are so many impediments to relatively small enterprises, which we all want to encourage, getting involved in bidding for business, even locally. That is the reason why I raise the issue. Such bureaucracy is so inhibiting. Every time we aim to reduce bureaucracy, we introduce another bit of bureaucracy to remove the previous bit. Do you want to comment on that?

Dave Watson: That would be the value of a living wage unit. In the same way as the living wage unit has done in London, such a unit in Scotland would set out some simple guidance for small businesses and others that work in the area. Small businesses would benefit from that—as, frankly, would local authorities. We often assume that every big authority can keep rewriting its own guidance, but if we had a living wage unit its job would be to produce guidance so that small businesses and local authorities did not have to reinvent the wheel every time they had to do a procurement exercise.

11:45

The Convener: There is a lot of head nodding. Are the other witnesses comfortable with Dave Watson's answer, or do you want to add anything?

Danny Williamson: That is fine.

Pat Rafferty: Yes, that is fine.

Margaret Mitchell: Good morning, gentlemen. Does the voluntary introduction of the minimum living wage by local authorities have the potential to impact on their ability to deliver services? If you go knocking on any door, you will hear people complain about potholes in the road, the condition of pavements and so on. Is there a choice to be made between the fundamental delivery of the services that we would like to see and making the living wage a priority?

Dave Watson: Our view is that there is not. As you can see from our submission, the sums of money needed in most local authorities are not large. In many areas, the cost to services of introducing the living wage would not be great.

I entirely agree with the points that were made earlier about the need to change the procurement guidance so that we address the inequalities with the voluntary and private sectors. We represent a lot of workers in the voluntary sector who deliver services in the care sector. The points that Annie Gunner Logan made on the race to the bottom, as I called it in our submission, are real. They need to be addressed, and procurement and positive guidance can do something about them.

Pat Rafferty: I again share Dave Watson's view. There is a lot of scaremongering when such ideas are introduced. I remember when the national minimum wage was introduced. At that time, the Confederation of British Industry said that the whole world would collapse, people would be made redundant and businesses would no longer be able to function. That was not the case, and it would certainly not be the case for a living wage.

Danny Williamson: We do not represent people in local government, but we have experience in central Government, with 39 bodies introducing the Scottish living wage at the moment. None of those bodies is talking about reducing services as a result of the living wage. The huge budget cuts that they face are causing them much bigger problems than the small expenditure that they are making to bring people up to a decent standard of living.

Margaret Mitchell: I suppose that my point was that, with the budget cuts and constrained budgets, bodies will be looking at service provision, the minimum wage and staff conditions, and I was wondering whether going the step further with the living wage would have an impact.

Dave Watson: At any time, there is a range of different objectives—the Scottish Government has a range of objectives. One point that has probably not been touched on is the value of the living wage in driving forward the Scottish economy. People forget that those on the lowest incomes tend to spend their money locally. The public pound goes a lot further in that way, and it drives small businesses in local communities. If you give money to the richest people in society, they are less likely to spend it in local communities. If you give money to someone on £7 an hour, they will spend it in their area, and that will drive the economy. If we look at the Scottish Government's strategy in the round, we see that the living wage is an important contribution for a relatively small investment.

The Convener: We heard from the first panel that the calculations are based on a working week of 37.5 hours. Are you comfortable with that assumption?

Dave Watson: I think that it is reasonable. It is an average. The problem with all statistics is that there will inevitably be variation, which you referred to earlier, convener. The working week will generally be between 35 and 39 hours. We have to pick a number, and I would not quibble with the calculation. It is important that we all agree, and the Joseph Rowntree Foundation has done a great job in getting a consensus. We will not start quibbling about statistics; we are focusing on how to get the living wage introduced.

Danny Williamson: We have a slight issue with the figure in our union. We have the experience of going through the process of negotiating the Scottish living wage in the last year. In our areas, organisations have different lengths of working week, ranging from 35 to 42 hours. Based on a Scottish living wage of £7.15, as it was in the last pay round, those hours would give an annual figure ranging from £13,060 to more than £15,000 as the definition of the Scottish living wage. We thought that that was a bit incongruous and difficult to deal with for some of our members, who were looking at people in the organisation next door getting something different. For example, people in VisitScotland are getting £900 less as a Scottish living wage than people in the National Galleries of Scotland. People working close to each other know about those figures.

We have to consider the annual rate as the factor and take the calculations from there. If you say that the minimum standard that you are trying to achieve is based on an annual amount, you have to apply that. A large number of people who are supposedly covered by the Scottish living wage are not actually covered—they are getting significantly less.

Pat Rafferty: The previous panel raised a key point about sleepovers and travelling time. How do you calculate a sleepover in the living wage? We will have to address the issue of sleepovers and whether or not they are working time. Travelling time is also important. I see no difference between a home carer travelling from one client to the next client and a bin man travelling from one bin to the next bin, but the first is paid only for the time that they provide a service to a client while the second is paid for the whole period. We need to address that issue, too.

The Convener: There are no further questions, so I thank all the witnesses. Their evidence has been very helpful.

11:51

Meeting suspended.

11:52

On resuming—

The Convener: Item 3 is consideration of some administrative issues relating to our living wage inquiry.

First, I ask members to agree to delegate to me as convener the responsibility for arranging for the Scottish Parliamentary Corporate Body to pay, under rule 12.4.3 of standing orders, any expenses of witnesses in the inquiry.

Members *indicated agreement.*

The Convener: The second question is to ask that the committee agrees to hold a discussion in private at the end of each meeting at which oral evidence is taken so that we can examine the evidence that we have heard and to consider all draft reports on the inquiry in private.

Members *indicated agreement.*

The Convener: Thank you.

11:53

Meeting continued in private until 12:04.

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