



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# HEALTH AND SPORT COMMITTEE

Tuesday 22 November 2011



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**HEALTH AND SPORT COMMITTEE**

**14<sup>th</sup> Meeting 2011, Session 4**

**CONVENER**

\*Duncan McNeil (Greenock and Inverclyde) (Lab)

**DEPUTY CONVENER**

\*Bob Doris (Glasgow) (SNP)

**COMMITTEE MEMBERS**

\*Jackson Carlaw (West Scotland) (Con)

\*Jim Eadie (Edinburgh Southern) (SNP)

\*Mary Fee (West Scotland) (Lab)

\*Richard Lyle (Central Scotland) (SNP)

\*Fiona McLeod (Strathkelvin and Bearsden) (SNP)

\*Gil Paterson (Clydebank and Milngavie) (SNP)

\*Dr Richard Simpson (Mid Scotland and Fife) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Neil Couling (Department for Work and Pensions)

Pam Duncan (Inclusion Scotland)

Richard Hamer (Capability Scotland)

Carolyn Roberts (Scottish Association for Mental Health)

Keith Robertson (Scottish Disability Equality Forum)

**CLERK TO THE COMMITTEE**

Douglas Wands

**LOCATION**

Committee Room 1



## Scottish Parliament

### Health and Sport Committee

*Tuesday 22 November 2011*

[The Convener *opened the meeting at 10:03*]

#### Interests

**The Convener (Duncan McNeil):** Good morning and welcome to the 14th meeting of the Health and Sport Committee in the fourth session of the Scottish Parliament. As usual at this point, I remind people to turn off all mobile phones and BlackBerrys.

First of all, I welcome our new committee member, Jackson Carlaw, and in accordance with section 3 of the code of conduct I invite him to declare any interests that might be relevant to the committee's remit. Any declaration should be brief but sufficiently detailed to make clear to anyone listening the nature of the interest.

**Jackson Carlaw (West Scotland) (Con):** I draw members' attention to my entry in the register of members' interests. I have nothing further to add to that.

**The Convener:** Thank you.

#### Decision on Taking Business in Private

10:03

**The Convener:** Moving to item 2, I invite the committee to agree to take in private item 4, which will be our discussion of the evidence that we hear today. Are members agreed?

**Members** *indicated agreement.*

## Welfare Reform Bill

10:04

**The Convener:** Item 3 is our second oral evidence session on the legislative consent memorandum on the Welfare Reform Bill. I welcome to the meeting Pam Duncan, director of Inclusion Scotland; Richard Hamer, director of external affairs, Capability Scotland; Carolyn Roberts, head of policy and campaigns, Scottish Association for Mental Health; and Keith Robertson, access development officer and manager, Scottish Disability Equality Forum.

Fiona McLeod will kick off the questioning. *[Interruption.]* I am sorry—I have raced into our next evidence session. Richard Simpson will ask the first question.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** I welcome our witnesses, some of whom I have had dealings with in the past. I have one general point and a couple of specific questions.

We have received a lot of evidence about the effects—sometimes quite harsh—that the changes will have, with concerns about the speed of their implementation, the lack of detail about how they will be applied and their general consequences. However, the evidence before us lacks proposals for alternatives. Almost every piece of evidence that we have received agrees that change is necessary and that we need a simplified system, but nobody has come up with any specific proposals. That is my general point.

My first specific question is about the effect on wheelchair users. There is a suggestion that a number of wheelchair users who are able to use wheelchairs over a distance may be denied benefits almost completely. I would value getting your comments on that on the record.

My other specific question is on mental health. The proposals will affect a large proportion of those who are currently on incapacity benefit. Given the fluctuating nature of their condition, they face particular problems in the application of any benefits system. Is the current assessment system working well—I know the answer to that, but I would like to hear about it in detail—and what changes do you think should be made to the assessment system to reduce the number of appeals and make it friendlier and more appropriate for those with mental health problems?

**Richard Hamer (Capability Scotland):** I will answer your first point about the lack of proposed alternatives. I suspect that many around me will join in.

I do not think that there are any particularly good alternatives to the reforms because disabled people are so disproportionately affected by the proposals. It is not a question of nipping and tucking to improve the process; there is a wholesale avoidance of the impact that the measures will have.

The Westminster Government has obviously done equality impact assessments of the various measures, which have shown that they will disproportionately affect disabled people, particularly in relation to housing benefit. We are also talking about a reduction of 20 per cent in the number of claimants of or the expenditure on disability living allowance—it is unclear which. That change will focus on disabled people of working age, and the suggestion is that there will be cut of around a third in the expenditure on that group.

I do not think that any simple or sensible proposals can be made, given the fact that employment circumstances in Scotland are particularly poor at the moment and it is difficult to rely on an employability solution. The economic problems that disabled people face remain the same. According to Scottish Government statistics, around half of households that include a disabled person earn less than £15,000 a year. Among the service users with whom Capability Scotland works, nobody earns lots of money from the benefits system.

There are plenty of other effects outwith the Welfare Reform Bill that will affect disabled people, including the economic climate for those who are trying to move into employment, the difficulty in getting mortgages in the private sector, and the unattractiveness for private landlords. There are also issues relating to the withdrawal, over time, of the independent living fund. At a time when there are so many other problems outside the proposed welfare reforms, I do not think that any sensible proposals could be made that would be a magic bullet for the expenditure.

**Pam Duncan (Inclusion Scotland):** It is important to get across to the committee the impact of the double whammy to which Richard Hamer has alluded. Disabled people are disproportionately affected by the welfare reforms not only because many of the reforms fall on benefits that are paid to disabled people but because disabled people access benefits disproportionately. Also, many disabled people—30 per cent of them—live in poverty, yet it costs them 25 per cent more just to live and to access society on any basis.

I draw the committee's attention to the Scottish Government's commitment to independent living, which sees choice, control, freedom and dignity for disabled people as not being about our doing

things on our own or being left to swing free, as it were, without any support, but as being about giving disabled people support to participate in society. The welfare reforms do not do that and are therefore a considerable move in the opposite direction from the policy gains that we have made in Scotland.

Disabled people need support to live. For me to live independently, I cannot not have access to my disability living allowance or to the independent living fund, because it is simply not the case that without those supports I am miraculously no longer disabled. It is almost as if the Government is moving from saying that disabled people require all that support to saying, suddenly, that we no longer need it and can just do everything by ourselves. I draw the committee's attention to the work that the Scottish Government has done on independent living and consider that the welfare reform approach is not congruent with that.

I not believe that it is congruent, either, with the preventative agenda that Christie has proposed and which the spending review has claimed is the way forward when it comes to meeting the challenge that the public sector faces.

**Keith Robertson (Scottish Disability Equality Forum):** To answer the first question, we do not have any specific proposals. At present, we have a system whereby it is virtually the case that if you can fill in a form properly or can get someone to fill it in for you, you can get DLA. What is being forced on us is a system that is not based on need—and it is imperative that whatever comes forward should be based on need. When a Government says that its starting point will be to make cuts of 20 per cent, that cannot possibly include consideration of need. By definition, therefore, the Government is excluding disabled people from the word go.

As Pam Duncan said, the knock-on effect of that is substantial. Can the few of us who are fortunate enough to be able to work continue to do so? On one hand, employment and support allowance forces us to work but, on the other, it is possible—and this leads on to your second question on wheelchair users—that losing the mobility or care component under the new system will mean that a lot of us will not be able to get to work or to work.

The newest draft assessment regulations suggest that a wheelchair user will have to meet at least descriptor 2.e to receive mobility allowance, which means a high score of 12. However, we have not been told what score someone needs to get to receive the allowance. It could be 12, 20 or 112—we do not know, because we have not been told. We are getting lots of phone calls and lots of reports. Disabled people are really frightened about the proposals. They are feeling the stress and are under a lot of pressure.

For many people, disability is such a huge issue that it takes up most of their life. If they work, they work, eat and sleep—that is it. We also need to have a social life, but the proposed welfare reforms do not address the social aspect of our lives at all. That and need are two of the most important considerations, and they have been missed totally.

**Carolyn Roberts (Scottish Association for Mental Health):** I will address specifically the question about mental health and the impact that the reforms will have on people with mental health problems. Some of my answer will also address the issue of whether there are any alternative proposals.

Our submission suggests some specific changes that we would like to be made to the Welfare Reform Bill and some areas where, if the bill goes ahead and becomes law, we think that the Scottish Government might be able to take action at least to mitigate some of the proposed changes.

It is certainly true that the Welfare Reform Bill will have a substantial impact on people with mental health problems, and it is correct to say that 46 per cent of incapacity benefit claims are currently made on the basis of a mental health problem.

10:15

There is more in our submission on the bill's effects and the changes that we would like to see, in particular the change to employment and support allowance, which involves the work capability assessment. That has been criticised by many people, including us, for focusing particularly on physical illness. It does not pick up on mental health problems and therefore it makes it less likely that someone with a serious mental health problem will qualify. Instead, they may be found fit for work when that is not the case.

Professor Harrington proposed some changes, which I am sure the committee has already heard about, to address some of those issues. We have not yet seen their full impact. In particular, we are still awaiting a response from the United Kingdom Government to Professor Harrington's second report, which focused particularly on fluctuating conditions. I believe that the report was published in April, and we are waiting to see what happens. We are pushing for a response to ensure that people who are undergoing the ESA assessments now—this is not a future change; it is happening now—are being treated as fairly as possible.

On the proposal to introduce PIP—the personal independence payment—again there is a concern that the descriptors will focus very much on physical illness and that the assessment is likely to

repeat some of the errors we have seen in the work capability assessment. We have been pushing in particular for an amendment so that people with fluctuating conditions will qualify for PIP. At the moment, there is a strong suggestion that if someone is not consistently disabled they will not qualify. That will rule out people who have a severe but fluctuating mental health problem, so we are specifically pushing to ensure that people with mental health problems are not disadvantaged.

There are other changes that we think the Scottish Government could make. In particular, there is a mental health strategy currently out for consultation that makes very little reference to employment, to employability and to trying to ensure that people with mental health problems can get into and stay in work. We think that changes could be made to that. I will no doubt revisit some of these points, but that is an initial response.

**Dr Simpson:** I am interested in the switch from jobseekers allowance to a means-tested allowance after one year, with the consequences to partners. Do any of the witnesses have any comments on that?

**Pam Duncan:** Do you mean the contributory employment and support allowance element?

**Dr Simpson:** Yes.

**Pam Duncan:** People who get contributory employment and support allowance will lose it after a year. Our concern is that they will lose it after a year even though 94 per cent of the work-related-activity group take longer than a year to access work, for various reasons that I am sure the committee is well versed in, including discrimination and the lack of jobs. For all those reasons, we are seriously concerned about the one-year limit.

Our other concern about the limit is that people who have already been assessed and moved on to employment and support allowance will have had their one year by next April and will lose ESA overnight. Approximately 22,000 disabled people in Scotland could lose a considerable amount of money overnight, and we have major concerns about that.

Another point is that if someone is considered fit for work, and therefore technically not disabled, others in their house can become non-dependants, with an impact on the benefits that the household claims. There is a cumulative impact of the loss: it is not just that the person loses a considerable amount of money overnight as part of the employment and support allowance, as you can see detailed in the response, but that there is a huge impact on others in their house.

**Dr Simpson:** Would that include the carers allowance, for example?

**Pam Duncan:** It would include carers allowance and how they are treated for housing benefit or council tax benefit. Also, if someone is considered fit for work, it is likely—although this is speculation to a degree—that that person would fail the DLA or PIP assessment, so there would be a further loss to the household earnings.

**Dr Simpson:** That is very helpful.

**Carolyn Roberts:** I support Pam Duncan's point. It is important to emphasise that the one-year limit to contributory ESA will take effect from next April; it is not one of the 2013-14 changes. Attempts are still being made, by the Disability Benefits Consortium, to change that in the Welfare Reform Bill. We have been lobbying to get the proposal changed and, in particular, to change the time limit to an initial two years with a subsequent assessment. There is still an opportunity to change the proposal, but it looks likely that it will go ahead. Indeed, people have already received letters saying that if they have had their ESA for more than 12 months next April, they will lose it. The change is happening now.

**Gil Paterson (Clydebank and Milngavie) (SNP):** I refer to Inclusion Scotland's submission and will talk about West Dunbartonshire in particular, as it is an area that I know well. The submission highlights three areas in the United Kingdom that have very high rates of incapacity benefit claimants. Given that West Dunbartonshire is very deprived and has a very low number of job opportunities, a very poor housing stock and a large number of people waiting in a queue to gain a foot on the housing ladder, how will the housing benefit changes related to property size impact on disabled people in West Dunbartonshire?

**Pam Duncan:** Inclusion Scotland remains extremely concerned about the changes to housing benefit. We now build homes that are fit for life, as they are called, so few one-bedroom homes are being built, which has an impact on the homes that are available for people to access.

In addition, many disabled people are already housed in unsuitable homes. Where the homes are suitable, the first requirement on the list is whether they are accessible, and size is not such an important factor. Some people therefore find themselves in homes that the Government considers to be too big for them, and under the reforms they will lose a considerable amount of money in their housing benefit. On top of some of the other cuts and losses that we have spoken about, including disability living allowance and employment and support allowance, that will have a huge impact on household income.

The proportion of incapacity benefit claimants in West Dunbartonshire is high in comparison with more affluent areas in the south of England. We remain concerned that that results in disabled people's voices in those areas, and in Scotland generally, not being fully reflected in the welfare reforms. The impact of the changes to housing benefit remains a huge concern for us.

Many people who need one-bedroom properties do not live in such properties, because not many are built. There are huge cost implications in Scotland, which I am not sure have been fully considered in the welfare reforms. Not only will there be an impact on housing; if people have to move, which could mean moving away from informal support networks, they may have to rely on formalised support networks. That will cost the local authority that they move to, or West Dunbartonshire Council if they remain within that authority area, a considerable amount of money. We see the proposal as a shift in the balance. It will therefore not save much money, and we do not see it as congruent with the preventative agenda that Scotland is promoting.

**Richard Hamer:** One issue to be aware of is that social rented stock is prevalent in Scotland, where there is much higher use of social rented accommodation. Having worked in the housing association sector in the past, I am aware that there has been a move towards larger properties and away from one-bedroom properties, which, in the past, Scottish Government policy viewed as being inflexible.

A lot of two-bedroom properties have been constructed. As Pam Duncan said, that does not fit with the proposed changes to housing benefit. There are very few accessible houses, and requiring people either to accept a significant cut in their housing benefit or to move not only impacts on them but has a knock-on impact on the local authority, which has a duty in relation to social care assistance or through adaptations.

Part of our work with the Scottish Government is on trying to address the number of adaptations required in properties. At the moment, the Scottish Government is trying to reduce the impact of adaptations and find better alternatives to spending often considerable amounts of money. The welfare reform proposals will significantly affect future housing policy in Scotland as they will push people to move between properties that are not accessible, which will require excessive expenditure when the amount of money that the Scottish Government has available for investment in housing is significantly limited.

**The Convener:** The witnesses can answer a question if they wish, but no one is compelled to do so. You may think that you cannot add anything to the previous answer.



**Keith Robertson:** Irrespective of whether disabled people have a fluctuating condition, like many people they may need care or more care as they get older. If they have only a one-bedroom property, it will restrict the level of any future care or any increase in care—for example, they may need a live-in carer or an extra room for equipment such as oxygen tanks or for hoists or other adaptations. The suggestion that disabled people who live on their own should be limited to one-bedroom properties is short-sighted to say the least.

Pam Duncan alluded to the situation of a disabled person having to move away from their area because of the policy. That would be likely to take them away from the immediate care that surrounds them. It is estimated that the work of unpaid carers in Scotland is worth £7.6 billion per year. A lot of that would end up as a cost on the health service, because the Government would not be able to replace that unpaid care. We must be careful, because that situation could happen simply because of the proposed restriction on the number of rooms that we are allowed.

**Gil Paterson:** Thank you very much for that.

To be honest, I am always looking for ways to save money. When you run a business, you would need to be daft not to do that. Does anyone have any research evidence on potential cost savings or additional costs from moving disabled people from one property to another? We must take into account that local authorities have been funded to provide adaptations for disabled people over a number of years. I cannot work out how there would be a cost saving from moving disabled people in the first place. However, if we factor in that many people have adaptations in their homes, what would be the cost to the council and the Scottish Government if people had to move in an area such as West Dunbartonshire, which because of its particular geography and industrial background unfortunately has a lot of people who require adaptations?

**Pam Duncan:** Forgive me for not having the details to hand, but Inclusion Scotland recently made a freedom of information request to every local authority in Scotland to find out how many adapted homes they had, how many disabled people were waiting to move into adapted homes, whether they knew what the demand was in their area and what the cost was of moving adaptations. As I said, I do not have the figures to hand and I cannot remember them, but we can certainly point the committee to that research. I said that it was done recently; it was actually done in 2009 or 2010, but I think that the figures will still be fairly relevant today.

The research showed not only that local authorities could not always meet the demand for

accessible housing—which would have an impact on the proposed policy—but that the cost of moving adaptations from one house to another was considerable for the local authority and not a particularly good use of public money.

**Richard Hamer:** A related point that may have already been noted is that the cost saving from the proposed policy would not affect the tenant in many ways if they could move to a smaller property—although they would obviously have a change in their household circumstances—but that there would be an effect on social housing providers, which might face having to reassess houses as single-bedroom rather than two-bedroom by means of blocking up a door, for example. Who knows how that would be managed? We must remember that it would be a cost saving for the Westminster Government and a significant cost increase for the Scottish Government.

**Gil Paterson:** I would be grateful if Inclusion Scotland could send us its research information on that issue.

**Pam Duncan:** We can forward it.

**Gil Paterson:** Thanks very much.

10:30

**Bob Doris (Glasgow) (SNP):** If you followed last week's evidence, some of the questions that are being asked will not surprise you. However, it is important that we get things on the public record, so that our report is evidence led.

There seems to be consensus that pain is coming to Scotland's most vulnerable groups through the welfare reforms. Many people are bracing themselves for the consequences. The committee is not just having a one-off event on this topic. Would you support the creation of a new committee of the Parliament to scrutinise the on-going impacts of the welfare reforms in the years ahead and the Scottish Government's attempts to mitigate the worst impacts, where possible? Feel free to give very short responses to that question—I just want to get them on the record.

**Pam Duncan:** My really short response is yes.

**Carolyn Roberts:** Yes.

**Keith Robertson:** Yes.

**Richard Hamer:** The reforms need to be scrutinised. As long as they are scrutinised, we do not mind the manner of that scrutiny.

**Bob Doris:** I wanted a yes-or-no answer so that we would have more time for questions. It was important to get your views on the record.

Another point that has been made to us is that many of the bill's consequences will be dealt with

by subordinate legislation at a UK level, and the devil will be in the detail. We have been asked to consider whether the bill should require the UK Government to seek the Scottish ministers' consent when it is making subordinate legislation that impacts on areas in which the Scottish ministers exercise functions but which do not fall within their executive competence. Where UK subordinate legislation would impact directly on the devolved delivery of services, should Scottish ministerial approval be required?

**Pam Duncan:** We have identified various impacts in Scotland, including on the national health service, local authorities and housing. It is really important that ministers have the opportunity to comment on those.

**Carolyn Roberts:** One of the main concerns that many people have about the bill is that it is what has been described as a skeleton bill—there is not a lot of detail in it—and a lot of the really substantial decisions will be made in subordinate legislation, so what Bob Doris suggests sounds like a reasonable way forward, which we would support.

**Keith Robertson:** We would certainly support such a committee, but it is really important that the Scottish Government, local government, the NHS, other public bodies and the voluntary sector continue to work together. We are at the sharp end. We hear directly from our members and other disabled people about the effects of even the thought of some of the reforms. Some of the calls that we get are devastating to listen to. Some disabled people are becoming suicidal simply at the thought of the reforms.

Although welfare reform is a reserved matter, disabled people in Scotland are looking to the Scottish Government to show them support. That support must not only be given but be seen to be given. That is really important for disabled people in Scotland, because we feel isolated and out on a limb. We need the Scottish Government's support.

**Bob Doris:** Does Mr Hamer wish to respond?

**Richard Hamer:** I can give you a yes-or-no answer to that question. The answer is yes. It is particularly important that there continues to be scrutiny of the bill and the subordinate legislation that will follow it.

**Bob Doris:** I thank the witnesses for those very short answers, which I appreciate. We are asking all witnesses that question so that we can get their responses on the record.

Given Mr Robertson's response, I will ask now the question that I was going to ask later. At some point this committee and the Scottish Parliament will have a tough decision to make on whether to support the legislative consent motion. I will ask

the cabinet secretary about this this afternoon but it has been put to me that the Scottish Government could introduce primary legislation to enable passported benefits to come on-stream with the UK reforms. Given Mr Robertson's call for strong support, do the other witnesses think that the Scottish Parliament should support the legislative consent motion on the Welfare Reform Bill?

**Richard Hamer:** The Calman commission recommended co-ordination and joint working between the Scottish and Westminster Governments, and Capability Scotland does not think that that has taken place with the Welfare Reform Bill. Given our concerns about a number of issues that are referenced in the legislative consent memorandum, including the PIP element of the universal credit proposals, Capability Scotland would suggest that the legislative consent motion not be supported.

**Pam Duncan:** Inclusion Scotland agrees with that not only for the reasons that Richard Hamer has highlighted but because of the points that Keith Robertson made. Disabled people remain an oppressed group of people in society and, on this occasion, we are genuinely looking to the Scottish Government to be leaders for Scottish disabled people and to send a message to the UK Parliament by recognising the huge, negative and deep-cutting impact of these welfare reforms and not giving its legislative consent.

**Carolyn Roberts:** We are particularly focused on how the bill will impact on those who will be affected by it and on what can be done to mitigate and, where possible, remove those impacts. We are aware of the debate about whether the legislative consent motion should be agreed to and, given that we are in somewhat uncharted territory, we have been trying to find out what it would mean if it were not agreed to. Our impression is that if the motion were not to be agreed to the Welfare Reform Bill would be passed anyway and would still have an impact on people in Scotland. We think that, if not agreeing to the motion did not improve the situation for people in Scotland, such a move would not be a priority. On the other hand, if it appeared that not agreeing to the motion gave the Scottish Parliament and Government the opportunity to address some of the issues that we have all been raising, we would support such a move. However, we have not been particularly focused on the matter.

**Keith Robertson:** I agree with Pam Duncan and Richard Hamer. Our members feel that unless drastic changes are made the bill the Scottish Government should not support the legislative consent motion.

**Bob Doris:** I want to get things clear in my head. No matter whether the Scottish Parliament supports the LCM, these welfare reforms will happen. This Parliament simply does not have the power to stop them. However, three of the four witnesses are saying that, irrespective of that, they would still like the Scottish Parliament to take a stand and say in symbolic opposition to the UK Government and in solidarity with disabled people in Scotland, "No—we don't support these reforms". Is that right?

**Keith Robertson:** Yes.

**Pam Duncan:** Yes.

**Richard Hamer:** Yes.

**Keith Robertson:** We would support such a move, combined with the primary legislation that Mr Doris referred to. The blue badge scheme, for example, is a passported benefit for those on DLA. However, if, as is proposed, mobility allowance is removed, not only might the individuals in question not be able to get a car from Motability—which has already suggested that those who lease a car will not be able to purchase it afterwards because the hire purchase option is being done away with—but they will not be able to park close enough to shops to do their shopping. If they do not have the passported benefit, they will need to get an independent medical assessment. We need to emphasise that although these things might seem small to someone who does not have disability they have a huge impact on the lives of many disabled people. The things that a lot of people regard as being something or nothing can be a massive worry and concern to a disabled person, especially those whose disability relates to mental health.

**The Convener:** Bob Doris has moved us on a wee bit, and that is appreciated.

Previous panellists have raised the question of the Welfare Reform Bill becoming law. We have also heard that it needs drastic changes. Does anyone on the panel believe that the bill will not become law or that there will be any significant changes to it between now and January, when the process finishes?

**Pam Duncan:** Given the fear that disabled people are experiencing just now, it is hard for any organisation such as ours to say that we are confident that the bill will not become law. People are genuinely terrified, and everything that we see, hear and read in the newspapers suggests that the mood is such that the Welfare Reform Bill may be passed.

We cite in our written submission five specific things that we have asked to be considered for inclusion in the Welfare Reform Bill. One of them is to allow people who live in residential care to

continue to claim the mobility component, as that has a huge impact on independent living for those people and on their freedom of choice. For example, if someone's residential care bus happens to be going to the church but they want to go to the mosque, what do they do? They rely on what is considered to be local authority-funded transport, but I cannot find much in the statute book that says that people have a right to that. That is huge concern for disabled people who live in residential care. We ask that the matter be completely reconsidered and the issue removed from the bill.

I will briefly outline the other things that we remain concerned about—I explain them in detail in our written submission. The time limit for the contributory employment support allowance should be removed from the bill. People with sufficient support and evidence should be exempted from independent medical assessments for PIP for financial, personal, moral and emotional reasons. The Government should reverse its decision to reduce by 50 per cent the disability premiums that families with disabled children receive. It should also remove the proposed changes to housing benefit, which will have the impacts that were described earlier in West Dunbartonshire, for example.

**The Convener:** I was not expressing a personal opinion; I was expressing an opinion that was given in evidence last week by people who are concerned about the bill and who are working hard to get it amended. They believe that there are not going to be any drastic changes and that the bill will likely become law. If we expect the bill to become law, how can we, in Scotland, mitigate its effects on the people whom you all represent? That is where I am heading. I am not expressing a personal view; I am recounting the evidence that we received last week.

**Richard Hamer:** The Westminster Government has ignored its own equality impact assessments. Have a look at them—they are quite clear about the effects that the bill will have on disabled people. The Westminster Government continues to ignore the voice of disabled people and the organisations with which we work, such as the disability benefits consortium, which was mentioned earlier. In our view, the only obstacle to the bill being passed remains the Scottish Parliament—so, who knows? It is uncharted territory, as Pam Duncan said. That is why Capability Scotland and other organisations will be saying that the Parliament should refuse to agree to the legislative consent motion on the basis that a strong force is needed to oppose the Westminster Government. We consider it to be the Scottish Parliament's duty and responsibility to address that.

**Carolyn Roberts:** The question was whether we believe that the bill will be passed, and like most people who work in this area we believe that it will be. We continue to work through all our networks—the disability benefits consortium, the Scottish campaign on welfare reform and Disability Agenda Scotland, which has been involved in the hardest hit protest—to achieve specific changes by proposing amendments at all stages of the bill. The bill is now before the House of Lords and there are few opportunities left for amendment. However, there are a couple of areas in which we think that we might achieve some small, specific changes. We think that the bill will be passed, which is why we are focused on trying to achieve change either to the bill now or to the subordinate legislation that will be required.

10:45

We also want to find ways for the Scottish Government to mitigate some of the bill's impacts, which is why we are focused on practical and not symbolic change. In our written evidence, we have tried to suggest a few ways in which the Scottish Government could make changes, such as through the mental health strategy and passported benefits. We need to think about how we can ensure that as few people as possible lose passported benefits. Many people who would have accessed them through the disability living allowance will no longer qualify because they will be found not to be disabled when they apply for the PIP, and we need to ensure that they do not also lose their passported benefits.

Through continuing to focus on prevention, there are other ways in which the Scottish Government can use its policies to try to mitigate some of the effects.

**The Convener:** We may come back to mitigation. Does Keith Robertson want to add anything?

**Keith Robertson:** I want to bring in the human factor and say what people themselves—

**The Convener:** We might come back to that. I asked whether you believe that the Welfare Reform Bill will go through.

**Keith Robertson:** Yes, we do.

**The Convener:** Do you believe that there will be any drastic changes to it?

**Keith Robertson:** No, I do not.

**The Convener:** Thank you.

Jim Eadie wants to ask a supplementary question on this issue. I remind him that it must be on this issue, because Mary Fee, Richard Simpson and Jackson Carlaw are waiting to comment.

**Jim Eadie (Edinburgh Southern) (SNP):** I did not intend to ask anything in this evidence-taking session.

I thank the witnesses for their written evidence and the oral evidence that they have presented. They have set out clearly the impact that the move to personal independence payments will have on disabled people in Scotland.

Ms Duncan, Mr Hamer and Mr Robertson have all clearly expressed the view that the Scottish Parliament should vote against the legislative consent motion. I think that they will understand that, although many of us are sympathetic to that view, we would not want there to be any unintended consequences and that, before we voted against it, we would want to be clear that that would not have any knock-on effect on the passported benefits that are available to disabled people.

Have the witnesses conducted an assessment of the impact of voting against the legislative consent motion? Are they certain that voting against it would not have a detrimental impact on disabled people in Scotland?

**Pam Duncan:** We remain absolutely clear that one of the most important things for disabled people in Scotland today is that they be represented and that their voices be heard. Our networks and thousands of disabled people who are members of Inclusion Scotland have told us that they want the Scottish Parliament to say no to the legislative consent motion, and we have remained focused on that.

We could provide the committee with evidence on the negative impact of saying no to the legislative consent motion at a later stage if that is acceptable.

**Jim Eadie:** Have you conducted an assessment to date?

**Pam Duncan:** Not that I am aware of.

**Jim Eadie:** I ask the same question of the other witnesses who said that we should vote against the legislative consent motion.

**Richard Hamer:** Capability Scotland has not conducted an assessment because the potential impact would be so massive and because it is difficult to assess—as we have discussed, the detail is not in the primary legislation. The knock-on effect of voting against the legislative consent motion would depend on how the Scottish Parliament and, in particular, the Scottish Government picked up the responsibilities. Unfortunately, there are far too many variables.

Other organisations have discussed the timescales and the need to get on with implementing the changes. The Westminster

Government has pushed the Scottish Government into the position of—to use Pam Duncan's words—oppressing disabled people and has set the timescales. If we accept that the proposals are ill judged, not thought out and not created in conjunction with the Scottish Government and the Scottish Parliament, we can accept that the timescales for the process can also be ignored and addressed with the Westminster Government in the same way.

**Jim Eadie:** Mr Robertson, has your organisation conducted an assessment of the impact of voting against the LCM?

**Keith Robertson:** No. I support what Richard Hamer said. There are so many variables, and getting a clear assessment is so complex. However, we believe that there are measures that the Scottish Government could put in place to help mitigate the effect on some of the passported benefits, such as blue badges, adaptations and so on.

**Mary Fee (West Scotland) (Lab):** I am interested in the panel's views on two things. First, what do you think the knock-on impact of the welfare reforms will be on local authorities? I am thinking specifically of people with disabilities losing passported benefits and support. As levels of debt and poverty rise, they might present as homeless to local authorities, but local authorities have very little short-term and temporary accommodation that is suitable for disabled people. What will be the knock-on effect on local authorities if they have to support disabled people when they are homeless?

Secondly, disabled people use their benefits to contribute towards their care and the cost of local clubs and groups to help them be part of society in general. If they lose those benefits and are therefore unable to access such things, what do you think the long-term effect on them will be?

**Richard Hamer:** I want to pick up on the support point, given that Capability is a large provider of care and support in Scotland. We did research in February on how local authorities took account of benefits in their care-charging assessments. That was part of a wider piece of work in which we are involved with the Convention of Scottish Local Authorities at the moment. The impact is threefold. One impact is that disabled people lose benefits and are therefore less able to pay towards their care package as it stands. Secondly, not every disabled person who receives DLA at present uses it to pay towards care; they might well have their own arrangement by which they pay for a carer directly out of their DLA and other money. If you take away DLA as part of the PIP, they have to get care from somewhere and, therefore, go back to relying on the local authority. The third point is about disabled people who no

longer get classed as eligible for DLA and who have a carer who might well get carers allowance at present but who, through the process of all the benefit changes, might lose that allowance and would, therefore, be unable to continue to provide that support. It would fall back on local government to provide support.

Through the work with COSLA and Scottish Government officials, we know that it is accepted that it is untenable for local authorities to continue to provide care and support at the same level of expenditure. When faced with either cutting the level of support or increasing the payments required from the disabled people who are receiving the support, most local authorities have moved towards increasing the charges to disabled people. Therefore, there will be a significant effect on local authorities' ability to provide care and support.

**Keith Robertson:** The effect on disabled people will be devastating. For many, it will mean isolation, depression, anxiety, a life without dignity and respect and, most important, a life without independence. We are going back to denying disabled people the very basic human rights that Abraham Maslow identified in his hierarchy of needs. The knock-on effect on local authorities will be tremendous, from social services to occupational therapy. We already know that there are not enough mental health officers in local authorities and the NHS. The increased need for MHOs alone is unlikely to be met, given that the NHS and local government can barely meet it now. There will be an effect on housing and all other services. It is less likely that disabled people will be able to access leisure activities or the kind of social life that everyone has the right to have and on which society is based. We will simply cease to be active members of society—it is that bad.

**Pam Duncan:** Let me start with the principles of independent living and giving disabled people freedom, choice, dignity and control. In signing up to the independent living vision, the Scottish Government recognised the need for disabled people to be supported in participating in the community. However, 30 per cent of disabled people already live in poverty and, given that they are half as likely to be in work and much less likely to take up public appointments, the level of their civic engagement is disproportionately much lower than that of non-disabled people. Removing any support that disabled people currently receive will only make the situation worse.

At a Scottish Trades Union Congress march and rally, a disabled woman said to me, "I wasn't going to come out today in case people started wondering how I could afford to get here and I wasn't going to bring my dog in case they

wondered how I could afford a puppy.” Is that really the sort of society that we want to live in? It demonstrates the fear that disabled people are feeling. The fact is that it costs more money for disabled people to travel anywhere because, more often than not, they cannot use public transport and have to rely instead on accessible taxis or their cars. Of course, petrol prices are going up and mobility allowance is not. The cost of living for disabled people is considerably higher; indeed, according to Leonard Cheshire Disability, it is 25 per cent higher.

Disabled people’s civic engagement, which we are hugely concerned about, is underpinned by human rights. Although article 19 of the United Nations Convention on the Rights of Persons with Disabilities says that disabled people have a right to live in the community, that is being grossly threatened by these reforms.

As for local authorities, we have discovered in our research that the City of Edinburgh Council has estimated that, when the independent living allowance ends in 2015, it will need to spend £1.8 million a year to meet supported accommodation costs and will lose £150,000 a year in revenue. The ending of the independent living fund is not covered in this suite of welfare reforms, but it is another cut that will have an impact. Local authorities will not only have to meet the costs of people’s inability to access disability living allowance, which will impact on how they contribute to their care—whether or not we agree with that is a discussion for another day—but have to plug the gap created by the ending of the independent living fund. As I have said many times, you do not just stop needing such support. I, for one, will be chapping on my local authority’s door and saying, “I need the money I got from the independent living fund—and I don’t have it any more. I can’t work without it.” Many disabled people are in the same situation, which surely goes against the grain of the intention behind these reforms.

Moreover, the eligibility criteria for local authority care services have become stricter. Because of that, many people are relying more and more on their benefits to access the services that they need. Indeed, various case studies from the Lothian Centre for Inclusive Living have concluded that disabled people are not meeting the new criteria for local authority support and rely wholly on their benefits to get what is sometimes very basic support such as someone coming in to get them up in the morning. All of these things, coupled with the other issues that we have discussed such as housing costs, the impact on house building and the question of whether people will have to move, where they will move to and whether they will have to move away from the kind of informal support that does not incur costs for

local authorities, will have a cumulative impact not only on disabled people and their ability to engage in the local community but on costs for local authorities.

**Carolyn Roberts:** Another issue that will impact on local authorities is the move towards self-directed support as an alternative to the more traditional commissioning of services. There is a contradiction between that approach, which focuses very much on an individual’s independence, giving them choice and putting them in control of their care, and the approach taken in PIP and other aspects of the Welfare Reform Bill, which in many cases is about providing the absolute minimum support.

Local authorities have duties under the Mental Health (Care and Treatment) Scotland Act 2003 to provide services that meet the social inclusion and employability needs of people with mental health problems. It is possible that the services that they provide to meet those needs will be severely oversubscribed and under pressure as more and more people with mental health problems find themselves having to seek employment, because they are no longer eligible for any benefits. There will be increased demand in that area, too.

11:00

**Pam Duncan:** When people are not given access to the support they need, it will put them into crisis. In the long term, that will cost more, of course, because they will require crisis intervention, rather than preventative intervention.

**Richard Lyle (Central Scotland) (SNP):** I welcome your earlier comments on the LCM. I know that Inclusion Scotland made five recommendations and said that, if none of those was supported, it would not support the Scottish Parliament passing the LCM. I welcome the point that you made to Bob Doris.

Under the reforms to housing benefit, someone living in a big house will lose quite a bit of money. As a councillor over the past 36 years, I have been involved in helping many disabled people to get adaptations to their houses. As Gil Paterson said earlier, thousands of pounds have been spent on such council houses. When we have the likes of North Lanarkshire with about 12,000 on the housing waiting list, I find it incredible that the UK Government is advocating that people should move to smaller houses. Someone will have to look at that. Have you taken that matter up very strongly with the UK Government? Does it know that some disabled people need equipment in a room next door, or need a carer to stay overnight and therefore need a two-bedroom house? I know several disabled people who stay in a three-

bedroom house because of circumstances. I would be interested in your comments on that.

Inclusion Scotland highlights, at paragraph 5.3 of its submission, the huge number of appeals against work capability assessment decisions, with more than 400,000 already lodged with the tribunals service. The submission says that almost 40 per cent of those who have had their cases heard have had their appeals upheld and that, for those represented by a citizens advice bureau adviser, that figure grows to something like 70 per cent. Does the UK Government not ask itself why, if you guys are winning all those appeals, it is continually ruling against people who should rightly be assessed as being eligible for benefit?

**Pam Duncan:** Thank you very much for those comments. We have worked as hard as possible to make the UK Government aware of the impact of all its benefit and welfare reforms. We have made recommendations and submissions to Maria Miller and we have invited her—both directly and through Michael Moore—to come to Scotland to talk to disabled people's organisations personally, so that she can make representations to the UK Parliament on this issue. Those invitations have not been taken up so far. We have also worked with many of the UK-based organisations of which we are a member, including the Disability Benefits Consortium, the National Centre for Independent Living and others, in order to look at some of the impacts. They have the ear of the UK Government more closely than we do, so we are trying our very best to raise awareness of these issues. Unfortunately, to a large extent, our calls are falling on deaf ears.

It is somewhat similar with the issue of the work capability assessment, which we have raised time and again. When we met the Department of Work and Pensions in Scotland to talk specifically about the DLA and the PIP criteria, we raised with it the issue that the criteria and the assessment that it would use would be based on the work capability assessment. We raised that issue then and asked the officials to take it back to their department. We said that the fact that 40 per cent of people are going through the appeals process is an issue because that is costing money and the process is clearly wrong. However, nothing seems to have changed.

We have, as far as possible, made the case that the assessment process is flawed and does not take a social model approach to the assessment of people—it does not consider, for example, the barriers to access to work. People have a year on employment support allowance and are then off it. The process clearly does not recognise that there are external barriers to employment that are not related simply to someone's physical impairment or their emotional, mental or learning impairment.

Those things are integral to the assessment process, rather than the barriers that disabled people face. I suspect that that is why 40 per cent of appeals—70 per cent when citizens advice bureaux are involved—are being won. I just do not know what the answer is in terms of making that clear to the Government.

**Richard Hamer:** The Westminster Government has an interesting approach to the housing part of what you are talking about. I was intrigued to see that its equality impact assessment mentions that no effects specific to disability were identified in the changes relating to overoccupation. That is astonishing. The Government is not now unaware of the effects, as it might have been when it wrote its assessment. Across Scotland, it is recognised that the housing stock is not made to suit disabled people and many organisations have made that point.

The Scottish Government has a group working on adaptations, in which we are involved along with many housing associations and local authorities. At the moment, the concern is about the affordability of adaptations, forgetting any changes that are coming through the Welfare Reform Bill. Even if housing associations readily accepted a cost of around £5,000 for an adaptation—that is just a ballpark figure—that would still be a significant amount of money to expect landlords to start spending simply because somebody is deemed to be in a house of the wrong size.

**Keith Robertson:** For quite a few years, we have been working closely with Scottish building standards to get a higher minimum standard of accessibility in the building or refurbishment of houses in Scotland than exists in England and Wales. That work will continue, and we hope that something substantial will come out at the end of it. Why does the UK Government not get our message? To be frank, judging by the responses from our members, I think that it has no idea what disability is. It has no grasp of the needs of disabled people and, sadly, it has no desire to know about disabled people—it is like a blind rhinoceros running wild that has got to make a 20 per cent cut, irrespective of the consequences for disabled people not only in Scotland but throughout the UK. The fact is that people are going to be put into dire poverty, with no independence, no dignity and no place in society. Our members honestly believe that the Westminster Government has no desire even to try to understand; it is simply going through a financial procedure, and it is not interested.

**Jackson Carlaw:** My question related to the points that Mr Doris put to the witnesses, but Jim Eadie anticipated it in asking whether any of the witnesses had any evidence or research to

support their call for us to withhold agreement to the LCM. I noted that the answer was no.

**Richard Hamer:** It is easy to be wise after the fact. Jim Eadie asked whether such an assessment had been done. There was talk in the parliamentary debate and—if I remember rightly—in the motion for that debate about the Government feeling unable to support the LCM as it was. Capability is a large organisation, but it does not have the resources available to it that the Scottish Government has, and I am sure that those around the table do not. If the Scottish Government has talked about feeling unable to support such a motion, we would hope that it would undertake that assessment.

**Dr Simpson:** I would like to ask a supplementary on that. It seems to me that we need to divide things up a bit. To talk about whether to pass a legislative consent motion is perhaps a little sterile in view of the fact that universal credit will be rolled out whether we like it or not.

There are areas such as data sharing and the industrial injuries disablement benefit on which we could give our consent, as the proposals seem quite reasonable. The local authorities will require information from the Secretary of State for Scotland and the DWP if they are to mitigate the bill's effects, so we could support what is proposed in those areas.

The Government has concerns about the proposed social mobility and child poverty commission—it thinks that Scottish ministers should be consulted on appointments. It looks as if the proposals on that might be amended by the coalition anyway, but do the panellists agree that we should propose in an LCM that we wish such an amendment to be made and that, as Bob Doris indicated, we want a clear undertaking that there should be direct Scottish involvement in the making of any subordinate legislation? Would the panellists find acceptable the passing of an LCM in respect of those four areas, even if we oppose the central tenet of universal credit?

**Richard Hamer:** You are right that those are not particularly contentious areas. The two contentious areas are, inevitably, universal credit and the personal independence payment, but we could be supportive of what is proposed in the areas that you mentioned.

**Carolyn Roberts:** I agree that the areas that you mentioned are not controversial; we do not hold a strong view on them. However, my question remains: I would like to know what the withholding of consent in particular areas would mean. Would it mean that those changes would simply happen anyway and the Scottish Government would not have the chance to influence them, or would it

mean that the Scottish Government could pass its own legislation to mitigate the impact on disabled people? If the latter were the case, we would fully support that.

**Dr Simpson:** We might put that question to the cabinet secretary this afternoon.

**Richard Lyle:** Pam Duncan said that she had made FOI requests on adaptations to councils. Keith Robertson prompted in me the thought that, through their capital programmes, most councils have updated houses for the disabled by making adaptations such as putting in lower electricity points.

As part of your FOI requests, did you ask how much each council had spent on adaptations over the years? That would highlight to the DWP the extent to which Scotland has improved its housing stock for disabled people. Evidence that housing had been greatly upgraded for disabled people would serve to indicate that disabled people should stay in it, even if it was a two, a three or even—dare I say it—a four-bedroom apartment, rather than being forced elsewhere. Did you ask for that information?

**Pam Duncan:** We asked how much councils had spent on adaptations over the four-year period for which they had been in place, but many of the responses that we got were not 100 per cent clear in the information that they provided. One of the main findings was that most councils did not have a full picture of how many houses for disabled people they had, how many adaptations they had done and how much that had cost. We concluded that it is impossible to meet the demand for housing that meets disabled people's needs without having an understanding of the population and the demographic needs at large. There will be some useful information in that report that can be passed on to the DWP to show some of the costs, but information is lacking in certain areas because of a lack of data.

11:15

**The Convener:** You are going to provide us with a copy of that research.

**Pam Duncan:** Absolutely.

**The Convener:** I will move on to another agenda, which Carolyn Roberts referred to. Even if we win all the arguments about amendments to the Welfare Reform Bill, I think that everyone agrees that we face a difficult time that will impact on the Scottish economy and on individuals, particularly the poor and the disabled. We discussed the moving on agenda with a panel last week. An obvious point is the impact that good advice can have in supporting people at this difficult time and ensuring that they can challenge



effectively any decisions that they believe are unfair and detrimental to them. In that area, there is a clear understanding of how we in Scotland could ensure that we mitigate the impact on people of some of the worst excesses of the Welfare Reform Bill. However, I am interested to know what other thinking has been done in that regard and what we should do in Scotland to maximise our use of the powers that we have at local government and Scottish Parliament levels to mitigate the impacts. Has any thinking been done on that, given that the train is fast approaching?

**Carolyn Roberts:** There are several things that the Scottish Government, local authorities and, indeed, the NHS can do to mitigate the impact. We have talked already about passported benefits. One of the most concrete things that could be done is to find ways to ensure that people who no longer receive PIP and who would therefore not qualify on the equivalent basis will still receive passported benefits.

We suggested in our written evidence that the access to work fund might provide some solutions to mitigate the financial impact that the reforms will have on many disabled people. The DWP funds access to work, which is intended to provide financial support to disabled people so that they can get to job interviews and get to work and stay in work. It would not cost the Scottish Government anything to promote that fund, which is one of the most underused funds in existence, much more widely. Currently, 340 people receive access to work funding on mental health grounds, but the number of those receiving it on wider disability grounds is still fairly small.

Those are the kind of practical things that we think could be done if the reforms are to happen. We also think that, in terms of their policy directions, health and social care could work more closely together over the next few years. They could encompass a focus on employability and helping people to stay in work wherever possible. At the moment, someone in the mental health care system will probably fall out of work quickly. There is not much focus at all in mental health care on helping people to stay in work. However, many benefits flow from keeping such people in work—for example, financial and social contact, as well as self-esteem and a sense of achievement. We could therefore take policy directions to help people to stay in work wherever possible, so that they do not have to go into this reformed and very difficult system. Those are the kinds of things that we think will help.

**Pam Duncan:** I agree with what Carolyn Roberts said. In addition, we would ask the Scottish Government to do other things, such as provide advocacy support for disabled people to help them to understand the implications of the

work capability assessments and how to navigate them and what to do at them. It could also ensure that volunteers can accompany people to assessments to help them through the process. We also think that independent advocacy is essential for all of this; it can support disabled people so that, as Carolyn Roberts said, they will not necessarily have to go into the system that welfare reform will create.

On care charges, the reforms will have a huge impact on the income of disabled people. The Scottish Government has jurisdiction over the cost of care for disabled people and how much they contribute to it, so it may like to consider some policy on that. We would argue that disabled people should access care and support that are free at the point of delivery, because they are an essential gateway to their human rights and their ability to participate in the community. There are things that the Scottish Government could do on that, as it is to do with the cost of living, as it were, for disabled people.

On employability and promotion of the access to work fund, it is essential that disabled people know that there are services and support out there. The access to work fund is underaccessed by all impairment groups in Scotland. I cannot remember the exact figure, but we can forward it to you when we send the report. Access to the fund in Scotland is lower than it should be; it is disproportionate to the number of people who have entitlement to it. It is important to promote the fund.

It is also important to put resources into welfare rights so that people understand the implications of all the welfare reforms that face them.

**Richard Hamer:** I warmly support the views of Carolyn Roberts and Pam Duncan on employability. Capability is a large supplier of employment services as part of the DWP schemes. We should not ignore the fact that they are being cut back at the moment; the subsidies to employers, in particular, are being reduced too, so some work on that would be beneficial.

From a policy point of view, there are some straightforward things that the Scottish Government could be doing. I am aware that it is picking out specific items, rather than addressing the whole area. However, the social housing charter could have a significantly better focus on accessibility than it does, because, at the moment, that is distinctly poor. Historically in Scotland, there has not been a focus on the very obvious demand for accessible housing by disabled people and the disproportionately high number of disabled people who rely on social housing.

We hear from many disabled people with whom we work about the use of DLA to pay for equipment, particularly wheelchairs. The Scottish

Government started work on eligibility and standards for wheelchair and seating services—I was asked to chair the working group. We are currently in discussions with the minister about the stalling of the work on eligibility in particular. Work in that area will be vital if disabled people find themselves unable to use private funding through DLA to pay for wheelchairs in the future.

**Keith Robertson:** One area where work could be done much better is adaptations. We continually hear about people having two or three shower rooms put in before they get one that suits them. It should be recognised that being a specialist in inclusive environments is a profession in its own right nowadays. When local authorities bring in jobbing plumbers and joiners to fit adaptations, quite often they get it wrong and the adaptations do not meet the needs of the disabled person. If we can get it right the first time, I would not say that there would be a saving, but we might get adaptations to other disabled people more speedily. We all know of people who, once they go into a council house, cannot get out for more than a year because they do not have a ramp or do not have a shower for six months because there has not been the money to put that adaptation in. If adaptations are put in properly in the first place, the funds that are there might have more longevity.

For disabled people in general, having the Scottish Parliament not only listen to their voice but hear them has made a big difference. When our members and other disabled people put across their opinion, it is listened to, which is refreshing and supportive. Obviously we hope that our views and voices will continue to be heard through organisations such as those on the panel. We are in direct contact with disabled people all the time—that is what we do. That support in itself is appreciated and we hope that it will continue.

**The Convener:** Maybe it is appropriate that we finish on that note. I hope that we have listened this morning. More important, I hope that we will use whatever influence we have to mitigate the impact on the people whom you represent. Thank you all for your attendance and valuable evidence.

11:25

*Meeting suspended.*

11:30

*On resuming—*

**The Convener:** I now give a warm welcome to Neil Couling, director of working age benefits at the Department for Work and Pensions. You cut a lonely figure, Mr Couling; we would have much preferred your minister to accompany you, but it seems that that was not to be. We do not give up

hope and will continue to press for a minister to give evidence. Of course, we have nothing against you—we give you a very warm Scottish welcome and look forward to your evidence and our being able to question you on the Welfare Reform Bill.

Fiona McLeod will kick off the questioning.

**Fiona McLeod (Strathkelvin and Bearsden) (SNP):** Good morning, Mr Couling. I want to ask about the facts and figures with regard to what is happening with DLA in particular. How did you arrive at the decision to make a 20 per cent cut in that allowance? Following on from Capability Scotland's evidence, are you able to tell us whether that is a 20 per cent cut in the DLA budget or are you expecting to cut the number of DLA claimants by 20 per cent? How did you arrive at the decision to remove the lower level of mobility allowance and the lowest level of care for DLA, both of which, I understand, will cease to exist? As Inclusion Scotland pointed out, the people affected will—miraculously—still be disabled. How many people in the UK and Scotland are on the lower level of mobility and lowest level of care under DLA?

**Neil Couling (Department for Work and Pensions):** You have asked quite a lot of questions. On the question whether the cut refers to case load or expenditure, I do not want to criticise previous witnesses but I think that the earlier evidence that you received contained a slight inaccuracy. In fact, there will be a 20 per cent reduction in expenditure on working age claimants to disability living allowance.

There is no abolition of the lower mobility rate or lower rate of care. In our proposal for personal independence payments, we set out two rates for mobility and two rates for the equivalent of the current care component of DLA. I make it clear—if I understand your question correctly—that the number of levels falls from five to four, not from five to three. As for the total number of people on DLA, there are 350,000 people in Scotland claiming DLA, 230,000 of whom are aged between 16 and 64 and will be impacted on by the move to the personal independence payment.

Did I answer everything you asked about?

**Fiona McLeod:** Yes, but I have a couple of questions on the back of those responses. How many of the 350,000 in Scotland in receipt of DLA get the lower mobility rate and lowest rate of care?

**Neil Couling:** I am not sure that I have that information.

**Fiona McLeod:** Can you send it to us?

**Neil Couling:** Of course.

**Fiona McLeod:** Although you say that the intention is not to do away with the lower mobility

and lowest care rates, disability groups assume that there will be a straight transfer to PIPs and that people on those levels of DLA will simply be told, "Don't bother claiming your PIP." Are you saying that the advice for those on the lower mobility and lowest care rates is that they should still apply for a PIP?

**Neil Couling:** My advice is that you cannot transpose from the old system to the new one. Another committee member asked about mental health. Mental health is not particularly well catered for in the DLA at the moment with regard to the mobility component, which is almost exclusively determined by a person's ability to walk. What we are seeking to do with personal independence payment reform is to update that and to address the fact that many people with mental health problems can walk quite easily but cannot get on a bus. That gives them a mobility problem that the PIP will need to respond to.

I have just remembered a question that I did not answer. I will try to do that now. We have been designing this as we have gone along and there are parts of the process that we have not dealt with yet. As an earlier witness mentioned, we have published the criteria for payments but we have not yet drawn the entitlement line. Although when we forecast the effects of the reform for the emergency budget announcement in June 2010 we said that we expected to make a 20 per cent saving on working age DLA expenditure, we are not drawing the line of entitlement there. We will draw it at a place that we think is reasonable after consultation with groups. Throughout the design process we have worked with organisations of and for disabled people to try to set the lines at a reasonable point. That is not to say that everybody who is entitled to DLA today will be entitled to a PIP—clearly that will not be the case—but we are not pursuing a monetary objective. We think that by redesigning the assessment there is a level of savings to be made, but we are not pursuing the savings as such. That is not a target for us.

**Fiona McLeod:** That is interesting. You seem to contradict yourself slightly. At one point you said that the number of DLA recipients will not be the same as the number receiving PIP.

**Neil Couling:** Yes. You just have to look at the growth in the DLA case load to understand that something is not quite right there. The case load is growing much faster than the demography in the country would suggest. We are confident that by putting an assessment process on the front of the claiming process for the personal independence payment there will be savings, and without the drastic outcomes that some of your witnesses suggested. There was almost a sense that we were somehow removing all support from everybody. That is not the case with the reform.

By 2015, expenditure on PIP will be exactly the same as current expenditure on DLA. What we are doing is dealing with the fact that many people with low levels of disability have been getting DLA.

**Mary Fee:** Did I pick you up correctly? Did you say that DLA takes into account someone's mobility but not their mental health?

**Neil Couling:** The way in which DLA works was framed in the late 1980s. There have been developments since then, but that view of disability is essentially what sits in the rules of the current benefits system.

Conceived on the back of the old mobility allowance, which focused on physical disabilities and mobility problems, the current mobility component of DLA does not recognise mental health problems very well. With the new assessment, we are seeking to update things for the 21st century and to recognise that many people with mental health problems also have severe mobility problems that might not be as severe as those facing people with physical difficulties.

**Mary Fee:** If I understand you correctly, someone with a learning disability who has a mobility problem will have their learning disability taken into account in the new assessment.

**Neil Couling:** It depends on the nature of the disability. It is not a condition-based set of entitlements. We are trying to assess how the severity of a person's condition impacts on their ability to participate in society. In essence, we are trying to design an assessment that sets all those factors against a scale of severity.

**Dr Simpson:** I have a concern about the memorandum that you sent us, in which you say that

"230,000 households in Scotland will have higher entitlements"

and

"190,000 households will have lower entitlements",

with the rest, I presume, retaining the same entitlement. Roughly, a third will increase, a third will decrease and a third will remain the same. That does not look too bad; indeed, it seems that this is a small reform that will improve things for some and make things worse for others.

The evidence that the committee is getting however, is that many feel this to be a massive attack on benefits. I always get worried when people start to talk about averages. When I was a minister and my civil servants produced average figures, I would say, "Well, let's at least get the mean and standard deviation to give things a bit more body." I understand the policy intention, which, in one sentence, is to focus benefits on

those who really need them. However, with, say, the removal of the mobility allowance from all those in residential care, irrespective of whether or not they are mobile, you are practically locking in the 4,000 people in Scotland who have a learning disability and are in residential care. That is an extraordinary move.

Instead of giving us averages, would you give more body to the actual ups and downs in these proposals? I realise that I am asking for more detailed information, but if you cannot provide that today will you at least give us something more from your point of view that we can consider? We have received stuff from the Scottish Parliament information centre that suggests what might change.

**Neil Couling:** It is not surprising that organisations that represent various groups will present their evidence in different ways. In the more than 19 impact assessments on the Welfare Reform Bill that it has published, all of which are available at local newsagents, on the web and so forth, the Government has tried to set out a very frank assessment of what we think the effects will be and to provide a lot of detail about gainers and losers under the various reform proposals.

I was responsible for the housing benefit reforms that came in in April and, when I and Lord Freud gave evidence on them to the Work and Pensions Committee, we were continually pressed about certain homelessness figures that various charities had put out. Those reforms have been active for eight or nine months and we have not seen the kind of homelessness figures that were being put around. In fact, the market is responding to the reforms and local authorities have done a fantastic job in implementing them without causing the kind of disaster that others foretold.

11:45

We have made a lot of information available. The net position on the universal credit is that, with a 2013 baseline, we will spend £4 billion more nationally than the counterfactual case. That £4 billion will go unevenly into the benefits population, but deliberately so, because we are trying to incentivise work. We are concerned about the large number of workless households, so we have put extra money into that part of the universal credit. The taper is probably less generous than you would want, and there will be losers from the reform. There are notional losers, although there is transitional protection. We have made a policy choice that we do not need to incentivise people who are already in work to get into work.

The advantage of the universal credit is that, if future Governments face a different problem and decide that the policy mix is wrong and they want

to change the taper rate or increase or decrease the size of disregards, they can adjust that. Such measures are an effective social policy tool. However, right now, the Government's concern is about the large numbers of workless households in the United Kingdom. The Government has therefore calibrated the extra money to tackle that problem.

**Dr Simpson:** The assessment system was changed under the previous Government and the process is outsourced to Atos Healthcare, which has taken a lot of stick for it. Are you happy with the mechanism that Atos Healthcare has been instructed to use, given that it results in an appeals system that, according to last night's Channel 4 news, costs £80 million a year and in which on average 40 per cent of appeals are successful, with the figure rising to 70 per cent for people who have a good advocate, such as a citizens advice bureau? Is the initial phase of the system working well enough? Are you comfortable spending £80 million on an appeals system?

**Neil Couling:** Dr Simpson, your previous experience with civil servants will tell you that they often say not to look at selectively quoted figures. In fact, if we take all the work capability assessments that Atos does and compare them to the number that are overturned by appeal, we find an overturn rate of about 9 per cent. In a system that rightly prides itself on the fact that the claimant can represent themselves in an appeal tribunal and can bring new evidence to the tribunal, there will always be a reasonably high overturn rate. If someone turns up at the appeal, they are more likely to get a positive outcome than if they do not turn up for it. That is an inherent part of the process.

The committee talked with the earlier witnesses about various kinds of assessment, particularly for DLA, but also for employment and support allowance. No matter how we try to objectify those kinds of assessment, we do not want to take the system to the point at which it is so inflexible that there is no scope for a fresh pair of eyes to look at a case and take a different view.

That was a very long answer to your question. You asked whether I am satisfied with the situation. I am satisfied with the way in which Atos conducts itself. It is unfairly criticised at times. The nature of its work is bound to lead it into some of the situations that it gets into.

We set up the independent reviews by Professor Harrington to see whether we could improve the work capability assessment. The Government accepted all the recommendations from his first review, which was completed last year. To point out another slight inaccuracy in the evidence that you received earlier, the Government has not actually received Professor

Harrington's second review. We have received an interim review. We asked him to examine the treatment of cancer patients, and we are considering the Government's response to his recommendations on that. His second review is about to be received.

I am sure that we will want to improve those processes and the PIP process in the light of experience. We are piloting and testing. We put a lot of effort into that with the WCA. Nothing is ever perfect in this world. The answer to the question whether the process makes an objective assessment of people's capabilities is yes, but I am not sure that we could say that in every individual case, because human beings get things wrong.

**Dr Simpson:** It is welcome to get the figure of 9 per cent for the overturn rate generally. The figures of 40 per cent and 70 per cent make it sound like a system that is almost in crisis, whereas a figure of 9 per cent for appeals is different. The point about new evidence being brought is also important.

I am slightly concerned about whether, within those figures, there is a particular problem with mental health, but I assume that Professor Harrington's second report, which looks at fluctuating conditions, including mental health, will give us some idea of how well the system is working.

The primary system is mainly done through general practitioners and nurses who are trained by Atos. There is no requirement that either the GPs—they are mainly ex-GPs—or nurses who address issues that are predominantly or entirely mental health issues have a particular qualification in mental health. That disconnect may be giving us some difficulties in dealing with mental health issues.

**Neil Couling:** Professor Harrington is due to respond to us on fluctuating conditions, which, as you know, can often be mental health problems.

As you were speaking I was thinking that, when I had a lot less grey hair, I helped design the predecessor system to the current one, which is the work capability assessment. The mental health aspects of that system gave us the most difficulties, because some very subjective assessments must be made. Evidencing is a lot trickier in that area, but the Government's commitment is to try to make the process as fair as possible.

**Bob Doris:** I will ask a more substantive question later, but I have a quick point on appeals. I will keep my powder dry on whether we believe that 9 per cent is an accurate figure for the overturn of assessments. The other figures that are in the public domain come from the direct

experience of citizens advice bureaux. Those figures indicate that 40 per cent of decisions were overturned and 70 per cent were overturned when the appellants had advocacy and representation at the appeal. That is clearly an issue, as the process will put increasing demands on advocacy services and third sector services in Scotland, not only in the case of workforce capability assessments, but also in the case of PIPs and appeals that arise through that process. Will the UK Government give the Scottish Government, which has a remit for income maximisation and the protection of vulnerable groups, an increased budget line to support the third sector and advocacy groups in Scotland so that they can represent people at their appeals?

**Neil Couling:** For a start, all the figures are accurate. The figures of 70 per cent, 40 per cent and 9 per cent are accurate.

Forty per cent is the figure for successful appeals among people who go to an appeal, so that is the overturn rate at appeal. However, to judge whether the system is working correctly, you cannot just look at cases that go to an appeal. I used to run the benefits system for Jobcentre Plus across Great Britain and to try to discern whether something is going wrong, you cannot look at such a limited sample.

A figure of 40 per cent or 70 per cent of appeals being successful does not say anything about the quality of decision making, either in jobcentres or in Atos. It tells you that the snapshot of people who go to an appeal get a certain overturn rate. A comparison is that the overturn rate for incapacity benefit, the system that I designed a long time ago, ended up at 58 or 59 per cent rather than at 40 per cent. You have to look at the entire population to try to judge whether the system is working well.

**Bob Doris:** As you have confirmed all three figures, can I clarify that, when we compare apples with apples, the figures of 40 per cent and 70 per cent show that a person is almost twice as likely to be successful in their appeal when they have advocacy and representation? Is that something that you acknowledge? Will the UK Government take that into consideration by giving the Scottish Government more money to fund advocacy services?

**Neil Couling:** I do not have the figures to hand, but I think that the figures for those who turn up to an appeal and those who have advocacy are very similar. There is a question whether an appellant needs advocacy to get them a successful outcome. The mere physical presence of the appellant at the appeal seems to sway the decision of the appeal judge and, in many cases, the appellant brings more evidence that was not available to the Atos person. Because the process

is—rightly—flexible, even if that evidence is provided subsequent to the assessment, the tribunal will not turn round and say that the assessment was right; it will just roll the entitlement across.

**Bob Doris:** Can I ask you for the third time to answer the question that was asked, which was whether more money will be provided for the third sector for advocacy services in Scotland, given the increased pressure that they will be under as a result of the UK welfare and benefit reforms? Has that been considered? Is it under consideration? Will such provision be made? Have you had discussions with the Scottish Government about that?

**Neil Couling:** My answer to the question was that I do not think that that is an appropriate policy response.

**Bob Doris:** That is interesting. You do not think that it is an appropriate policy response. Do you have an opinion on the matter? What is the UK Government's opinion on it? These are the easy questions, Mr Couling; we have not got to the difficult ones yet.

**Neil Couling:** I am finding the questions quite easy to answer.

**Bob Doris:** You have not answered my question yet.

**Neil Couling:** I said that I do not think that that is an appropriate policy response. The whole point of the administrative appeals system is that people do not need representation—that is why it is there—so it just does not make sense for a Government to set up a system that provides for administrative hearings in the way in which it does and to pay for that, and then to pay for additional representation.

**Bob Doris:** I will come back with a more substantive question, but the record will show that on three occasions you were asked whether additional resources would be provided and that on three occasions you just did not answer.

**Neil Couling:** I said that they should not be provided; I said that I did not see that there was a need for them.

**Bob Doris:** So the answer is no.

**Neil Couling:** It is no.

**Bob Doris:** Okay—thank you.

**Gil Paterson:** I will ask some questions about the bill's policy on property size. You will probably know that in Scotland's old industrial areas the housing stock is, typically, extremely poor and that there are long queues of people waiting to access that poor-quality housing. That phenomenon is particularly evident in the west of Scotland.

Can you provide the committee with any analysis of the number of houses that might be available in a given area into which people could be moved in the timeframe that you envisage or of the cost of any adaptations that might be required if the policy proceeds? In addition, on the logistics, who would pay for the changes? I assume that large numbers would need adaptations, if we could provide the houses, so who would provide the moneys for them?

**Neil Couling:** You asked quite a lot of questions; I will try to deal with them all.

If we were to look narrowly at the social sector and not to consider the private rented sector, the policy would struggle, in a theoretical sense, because we have a situation in which there are people in the private rented sector who want social sector housing, particularly families with children, and we have a bunch of claimants underoccupying their social rented sector properties. We must look at the whole housing market to understand how such a policy might work.

It is very difficult to provide figures on the number of housing units and what might happen because there is a huge behavioural response possibility. People could respond to this policy in a number of ways: by taking in a lodger to make good the drop in their housing benefit, by moving or by going into work. There is a whole series of responses—it is just not possible to develop an impact assessment in and around that.

12:00

We know from some work that we have done with existing social sector folk that a number—nearly half—are saying that they will respond by going into work. They will make up the shortfall in their rent in that way, because, for them, remaining in the property is the most important thing. When we did work on the local housing allowance, when there were concerns about shortfalls between local housing allowance awards at the top end and rents, we found that people prized staying in their property highly, so there were fewer moves than we thought there would be when we brought in that reform.

The final point that I want to make picks up on some of what the previous witnesses said. The Government is looking at the issue of adaptations to property in respect of disabled people, because it clearly does not make sense to move people out of homes that have been adapted extensively at great cost to another authority. It is not the UK Government that would meet those costs; it would be the Scottish Government in Scotland and local authorities in England and Wales. We do not want that to happen, so we are looking at what we can do in and around that aspect of the reforms.

**Gil Paterson:** I will give you an example. West Dunbartonshire has the lowest job attainment prospects in the whole of the United Kingdom. It also has some of the most deprived areas in Scotland and in the United Kingdom. You could not make the model work in such an area if you did not have the houses to shift people around in the first place. I will make an assumption that there would not be the houses required in the private sector in that area. Would exemptions be made for such an area, where, effectively, your Government's policy could not be effected?

**Neil Couling:** I think that it is possible to effect the policy in West Dunbartonshire and the rest of the United Kingdom. I know that the lack of jobs at the moment is a concern. A number of the groups that have made representations on the bill have said that.

These reforms are not just for the economic situation that we are in today; they are for the future, too. We want to open up the housing market more. We want more mobility in and around housing and these reforms will help to provide that. We want to encourage people to be in the labour market and not excluded from it. That is what the work capability assessment is about. The universal credit is designed to incentivise work. There are not a fixed number of jobs in the Scottish economy. The fact that individuals make themselves available for work will drive job creation; that has been the history of the past 20 or 30 years of the UK economy. The reforms are intended to support that and to move in that direction.

**Gil Paterson:** Have you looked specifically at West Dunbartonshire, given some of its records, which people are not happy about? If you could make the policy work in West Dunbartonshire, I think that you could make it work anywhere, so maybe my challenge would be for you to provide figures for West Dunbartonshire to show how the change that you suggest would work. If, all of a sudden, there were no quality housing available in the public sector—I am saying that there is none—how could that be transformed when very little additional private sector accommodation is available? With so many folk unemployed, and the worst job prospects in the United Kingdom, my challenge would be: can you make it work in West Dunbartonshire?

**Neil Couling:** As I said, I think that we can. A whole series of behavioural responses to this policy change is open to claimants to take. Some will make those responses; others will be less able to do it in that way and will do it in another way.

You ask whether I can provide figures for West Dunbartonshire. I am sure that I can provide you with figures on the stock of housing, but what I cannot do, for you or the committee, is overlay an

assessment of the detailed behavioural responses by the individuals who are affected by this policy change. That is just impossible to do. I would be making a guess, and we do not make guesses in impact assessments and the like.

I want to be able to help the committee, and you in particular, but there is a limit to what the analyses can tell you here. We are adopting this measure for good reasons across the UK. We think that it will work across the UK, and in locations, but the responses in different locations will clearly be determined by the availability of properties and of work, and by whether people choose to remain in those locations or move from them. I do not have a crystal ball to foretell what all that will be.

**The Convener:** We are back into the guessing game if that is the case, and if you are uncertain about the outcomes and how this will affect communities. The one-size-fits-all approach is concerning, as I think Gil Paterson mentioned. We have communities that are behind the curve and less resilient in the current situation, and there are hot spots within them. There is genuine concern that a one-size-fits-all approach does not have the desired flexibility to implement these policies successfully.

**Neil Couling:** With regard to the flexibility within the policy and to the range of possible behavioural responses, I cannot foretell exactly what those responses will be. You ask whether the policy is appropriate. As I said in my introductory remarks, we are making these changes to get more movement between the social sector and the private sector in order to encourage housing supply, when we have limited resources to meet need, and to a greater extent when resources are extraordinarily tight. I think that the policy meets those objectives, but we have been quite open that we cannot predict all the behavioural responses from all these reforms.

**The Convener:** But where are the resources to ensure that there is appropriate social housing for those who are capable of moving towards the job market, wherever those jobs might be?

**Neil Couling:** The social housing waiting lists are extraordinarily long. A housing strategy for England was announced yesterday, and the Prime Minister was talking about some of these issues, and about the fact that it is possible to go on to a housing list and wait there and that, whatever one's circumstances, ultimately one might be granted some kind of social housing. He was asked whether that was a good thing, when we need to prioritise these matters. The Scottish Government has policies that we support in terms of wanting to expand the supply of affordable housing and build more social units. This is where all those policies start to come together.

**Dr Simpson:** I understand the policy objectives and the mechanisms by which you hope or expect that people will respond—the three responses that you suggested were moving into work, changing accommodation and taking in a lodger.

If an individual who lives in Glasgow or West Dunbartonshire has no social housing to move to or no job to take and is somewhat vulnerable, so that the last thing they want is a lodger living with them, will a human mechanism allow them to appeal against their bit of housing benefit being taken away because their property is supposedly underoccupied? Will a human mechanism continue the support for human beings who cannot manage what is proposed until circumstances change, or would that undermine the policy objectives completely?

**Neil Couling:** As the policy is conceived, the answer is no—such a mechanism will not exist. We are being pressed on that as the bill goes through the House of Lords.

I suspect that the difficulty with such a measure is that most people would represent themselves as being in such a situation. Introducing such a system, which sounds reasonable as you describe it, would undermine the policy. If a set of people in a certain circumstance could be defined tightly enough, we might consider such a proposal, but I cannot think of a way of so defining people.

The issue has arisen in relation to disability. Defining an adaptation to a property is proving extraordinarily difficult, because the range of adaptations is huge—it goes from fitting handrails to putting on the ground floor all that a disabled person might need. We would not want to move an individual who has everything on the ground floor, but do we really want to keep people in oversized homes because they have had a handrail fitted, when a handrail could be fitted in a smaller property? The answer is probably not.

Pam Duncan talked about the evidence that she tried to source from FOI requests to local authorities. I have had exactly the same difficulties, so I sympathised with her. Obtaining the information is tricky.

**Dr Simpson:** I understand that you do not want to undermine your policy objectives, but some individuals will undoubtedly suffer badly as a result of the bill.

**The Convener:** Dr Simpson, I need your co-operation, as other members are anxious to speak. Bob Doris will ask a supplementary, then we will move to the ever-patient Richard Lyle.

**Bob Doris:** I thank Mr Lyle for his patience.

I wrote down a couple of comments that Neil Couling made about housing benefit reforms. He said that

“the policy would struggle, in a theoretical sense,”

but that it would be implemented in reality, which would have a “behavioural response possibility”. I will deal in fact. I have a disabled constituent who lives in a two-bedroom house and who needs to move to a one-bedroom property. I am told that the turnover time to find a suitable property might be about 18 months.

I have a variety of constituents who are trying to downsize to one-bedroom properties for various reasons and who would be subject to the housing benefit penalties for underoccupancy. When I write to social housing providers, they say that they expect an average wait of two or three years or perhaps even longer. Sometimes, we are told that such properties are like hen’s teeth. People say, “Haud yer breath—they’ll be around in a decade.” Despite that reality in Glasgow and other parts of Scotland, would the housing benefit of my constituents who rely on that benefit be cut under the welfare reforms?

12:15

**Neil Couling:** If they did not move, yes.

**Bob Doris:** I apologise for interrupting you; it is a terrible habit of mine.

Just to clarify, if there is not a suitable move—if they have nowhere to go—what are they supposed to do? Would you still cut their benefits? That is the nub of the matter.

**Neil Couling:** We do not know that there is not a suitable move; as I said in my opening comments to Mr Paterson, there are opportunities in the private rented sector. When other changes have been made to housing benefit—for example, the move from the 50th to the 30th percentile—people’s housing benefit has been adjusted for that policy change. In the same way, that is what would happen in these circumstances.

**Bob Doris:** Finally, I work very closely with the private rented sector in Glasgow—there is no choice but to do that to find suitable properties for a lot of people who are in social housing need. The Scottish Association of Landlords tells me that it is placing fewer and fewer people with social housing need in the private sector because those in in-work poverty who do not qualify for housing benefit are putting such huge demands on the private sector. Have you made any assessment of that before you introduce these cuts?

**Neil Couling:** Currently, the growth in housing benefit in the private rented sector exceeds the growth in the social rented sector, so people are moving and claiming housing benefit in greater numbers in the private rented sector. There is some movement going on. They might not be exactly the same people whom we are talking



about here, but the private rented sector is working efficiently. We know that there is a problem with some landlords who will not rent to housing benefit customers—we tried to tackle that problem in our 2011 reforms—but the private rented sector is quite healthy.

**Bob Doris:** I have my doubts, Mr Couling, but thank you for your comments.

**Richard Lyle:** May I ask how long you have been in your job, Mr Couling?

**Neil Couling:** I have been in the Department for Work and Pensions for 25 years.

**Richard Lyle:** Okay. I have been a councillor for 36 years. In that time, I have helped about 4,000 people to get a house. What you are saying that people will have to do to move is physically and utterly impossible. People have to start living in the real world. The average waiting time in North Lanarkshire, to move house on a points system, can be anything between 18 months and 10 years. People who are asked to move from a three apartment or two apartment to a one apartment because they are living alone or because their benefits are going to be cut will not be able to move. Let me assure you of that. What you are suggesting will happen is physically impossible. There are more than 280,000 people on incapacity-related benefits, 340,000 on disability living allowance and 475,000 on housing benefit in Scotland alone.

I think that you were in the audience for the first witness panel. I return to Inclusion Scotland's point about tenants moving—more than 95,000 Scottish households will be affected. Are we asking people to do a mass exodus? To where? They will not be able to do it. In North Lanarkshire—I point out to Gil Paterson that our houses are much better than those in West Dunbartonshire—we have spent millions of pounds on disability improvements to houses that you are asking people to leave. What do we do with those houses?

**Neil Couling:** We estimate that 70,000 people are affected by the policy change in Scotland. Not all of them will choose to move; indeed, from what has happened in previous housing benefit reforms, I suspect that the vast majority will choose not to move and will adapt in ways that I have touched on in previous responses. However, I do not know that for certain, which is why we are very carefully evaluating all the housing reforms. Previous experience shows that in response to other housing benefit changes people have valued their location above other needs or desires and have adapted to maintain themselves in that locality. In London, where the 2011 housing benefit reforms are hitting most acutely, there have been a small number of movements to different parts of boroughs but even in a city that is so mobile and

easy to get around people are not moving across local authority boundaries.

As I have said, my experience suggests that there will be no mass movement of population of the kind that some have been talking about but, in the impact assessment, we have very openly set out the figures to counter any accusation that we have not made any of this apparent to people.

**Richard Lyle:** You mentioned the rented sector. Last night, I saw on TV that people in London were getting £450 a week in housing benefit. I know of no place in Scotland where people are getting paid £2,000 a month in benefit.

If I asked you to take a 10 or 20 per cent cut in wages from tomorrow, I am sure that you would not be too pleased. You are asking people to take a cut in their benefits and asking them to move from a house that might have been adapted for their disabilities, which they cannot do. How can you honestly defend these proposals?

**Neil Couling:** I am not asking them to do all those things. They can respond to this policy change in a number of ways, one of which might be to move to a cheaper and smaller property for which they will receive full housing benefit. They could choose to remain where they are and take in a lodger to make up the difference, or they could move into work and get an income that allows them to make good the difference and cover their rent. That is the nature of the reform and depending on their circumstances people will respond to it in different ways. As I have said, the Government is looking at ways of keeping disabled people who have made major adaptations to their homes in those locations without having to unravel the policy. We have not yet reached a conclusion on that, but we are working with organisations of and for disabled people and local authorities to get a sense of how we might draw up a sensible definition to cover that group of people.

**Richard Lyle:** I finish with a plea on behalf of those who are disabled, many of whom have made major adaptations to their houses, not just put up a wee handrail to allow them to get in the door.

**Mary Fee:** When do you expect to reach a conclusion on your discussions about not moving people who have made major adaptations to their homes?

**Neil Couling:** I am sure that the House of Lords will not let us progress the bill until we have done that work.

**Mary Fee:** When will that work be concluded?

**Neil Couling:** We are aiming to achieve royal assent by the end of January or perhaps February,

depending on other Government business, so we hope to conclude the work between now and then.

**Mary Fee:** Within the next six to eight weeks, then.

**Neil Couling:** I think that that is how the timescale works out.

**Jim Eadie:** Did you say that the amount of money that would be available for the new personal independence payment would be the same as is currently available for the disability living allowance?

**Neil Couling:** Yes; we estimate that by 2015 we will be paying out the same in PIP as we pay out in DLA.

**Jim Eadie:** So, is the 20 per cent target a cut not in expenditure, but in case load?

**Neil Couling:** DLA is growing at 5 per cent per annum; as a benefit, it is growing fast. In expenditure terms, the reforms will take the top off that growth. The same amount that would be spent at the start of the session of Parliament would be spent at the end of the session. That is a cash-terms calculation.

**Jim Eadie:** So, is the 20 per cent target a cut in case load, rather than in expenditure?

**Neil Couling:** No. The 20 per cent target is a cut in expenditure, not in case load. Until we decide where to draw the lines, we cannot model the expenditure effects of the reform. We have been in an iterative process with the design group to try to reach consensus about where the lines should be drawn.

**Jim Eadie:** So, the new PIP will represent a 20 per cent cut in expenditure. How was that figure arrived at?

**Neil Couling:** The figure was an assessment that was made at the time of the emergency budget. It translates into reductions in expenditure of £350 million in 2013-14 and £1,050 million in 2014-15. We reached that by taking an estimate of what the work capability assessment did when it was applied to the incapacity benefit case load. We modelled that and assumed an analogous outcome in reform of the DLA. I should be clear that at that point we had not designed the personal independence payment. It was a forecast—not a target.

**Jim Eadie:** You mentioned the work capability assessment as part of the employment support allowance. We have heard from you and from other colleagues that a high percentage—40 per cent—of decisions have been overturned at appeal. Given that we can expect a similar figure as we move forward with the proposed changes, how realistic is that 20 per cent target?

**Neil Couling:** When we come to assessing the effect of the reform, we will factor in an assumption about the turnover rate at appeal.

I chair, jointly with the chief executive of the agency that is responsible for dealing with appeals, a task force on dealing with the increase in ESA appeals. We are planning for the implementation of PIP and the fact that we are taking the entire stock—the existing claimants of DLA—through a process over the three years from 2013. The agency needs to gear up to ensure that it can receive any appeals and hear them in good time. We are seized of the fact that the reform will increase the number of appeals that go through the system.

**Jim Eadie:** I have asked you how realistic the target is. It would be helpful to have your response to that on the record. I suppose that the question that the previous witnesses would have asked is how fair that target is, given its arbitrary nature and the impact that it will have on disabled and vulnerable people in Scotland.

**Neil Couling:** You would have to look at what is driving growth in the DLA case load at the moment. Is 5 per cent growth ahead of what demography would lead us to expect? The baby-boomer bulge is going through at the moment, and the older you are, the greater is the likelihood of your being disabled. We would expect to see an increase in the number of successful DLA claims and we have to ask whether that is more than we would expect. We are talking about a process to bring the numbers back into line with demography. Is that fair? I think that it is, because people outside the benefits system who fund it through their taxes would ask whether there is an objective assessment for determining entitlement, which is what we seek to put in place. We are not trying to remove benefits from all disabled people or anything like that; we are just trying to put in place a reasonable assessment of entitlement.

12:30

**Jim Eadie:** I am talking specifically about the 20 per cent target. How fair is it, given its arbitrary nature?

**Neil Couling:** It is not a target, for a start, as I have said on a number of occasions. I think that it is a reasonable assessment based on where the demography would lead you in terms of DLA case-load growth compared with how it has been growing over the past 20 years or so. It represents a reasonable assessment of the effects of the reforms.

**Jim Eadie:** We will put aside the issue of when a target is a target and not an assessment. We will no doubt balance the evidence that you have given us against that which we received from the

disability organisations this morning. Can I ask a final question, convener?

**The Convener:** Yes.

**Jim Eadie:** How is the respect agenda proceeding in the discussions and consultation between the DWP and the Scottish Government?

**Neil Couling:** On our relationships with the Scottish Government, I think that we are doing really well in terms of our contacts. We get a lot of good advice on how to adapt social security proposals to the reality of the Scots law jurisdiction. Scottish officials are engaged on all our major reform programmes. We have just talked about DLA/PIP, with which they have been engaged from the start. Ministers meet to discuss issues, some of which we have exposed today and which are of clear interest to the Scottish Parliament, even though they are reserved matters. In addition, there are obviously knock-ons into responsibilities that are within the purview of the Scottish Parliament and Scottish Government.

We have attempted to be sensitive—indeed, in that regard we might come on to the legislative consent motion at some point. The legislative consent motion is our attempt to help this Parliament and the Scottish Government to discharge the consequential aspects of the UK Government's reforms to welfare. We are therefore in regular contact with the Scottish Government and relationships are good.

**The Convener:** You suggest in your submission that there were 70 contacts. Can you explain to me what that means?

**Neil Couling:** There have been telephone conversations and physical meetings. For example, I have come to Scotland to meet Scottish Government officials before a meeting at ministerial level. There is a joint ministerial committee, which the Deputy Prime Minister chairs, on which the three devolved Governments and the UK Government are represented. Just this morning, before coming here to give evidence, I had a meeting with a colleague from the Scottish Government to discuss their progress on some aspects of the reform agenda.

We are in regular contact and the Scottish Government is engaged in all our major governance structures in and around the big reforms, including the universal credit and DLA/PIP. We have also been talking about how we could devolve responsibility for the social fund. We have always been in touch on housing issues because those responsibilities have always been devolved. Even before the creation of the Scottish Parliament, they were devolved in an administrative sense.

There is therefore a long history of such work and there are very good relationships between us in and around trying to help ministers in both Governments to discharge their responsibilities to the various Parliaments.

**The Convener:** Again, 70 is an impressive number, but if 50 of the contacts were phone calls, that is not as impressive as I would have liked. Can you provide notes of the type of issues that have been discussed, as well as dates and agendas of discussions and so on? You mentioned good advice. Are there any examples of the advice that you have taken and acted on?

**Neil Couling:** A particular example concerns the shared accommodation rate proposals, which increase from age 20 to age 35 the requirement for housing benefit to pay for shared accommodation. After talking to various interested groups, we were concerned in particular about people who were coming from prison and had a propensity for violence. We were concerned about how putting them into shared accommodation could present a risk to the other people in that accommodation. For England, we designed a concession to exempt that group from the proposals. Working with officials in the Scottish Government, we designed an analogous exemption—it is not exactly the same—that has regard for the nature of law in the Scottish jurisdiction.

**The Convener:** I am trying to get to the heart of the matter. You have described the relationship as being “good” and you have talked about regular meetings with officials. You have said that there has been at least one meeting between the Cabinet Secretary for Health, Wellbeing and Cities Strategy and Iain Duncan Smith, in September.

However, that is not the public perception of what is going on. To the public, it seems that there has not been enough engagement with the Scottish Government, that not enough detail has been shared and that there has been no recognition of the proposals on reserved matters and on Scottish Government policy that has been developed over the past decade.

**Neil Couling:** Clearly there is politics going on, as there always is. However, at the practical administrative level, relationships are very good—as, I hope, all politicians would want them to be. We discuss things in confidence. I could share with you a long list of contacts that I have had, but some cover confidential matters, so if you asked to see the notes of those meetings, that might pose some problems. You might just have to take my word for it that there has been a lot of contact and that that will continue.

What people outside will say as criticism—it is a reasonably easy criticism to make—is that the UK

Government does not understand the full detail of the Scottish context. That is, to an extent, true and not true. Clearly, I am not an expert on Scots law, so I look to my colleagues in the Scottish Government to advise me about whether provisions that I hope to introduce will work in a Scottish context. In one sense, they are there to provide me with that kind of context. However, my point is that we are discussing issues at political and administrative levels and it is hard to give a blow-by-blow account of those discussions while ensuring that candour will be maintained. That is quite a tricky thing to present to individuals outside the process.

**The Convener:** From your point of view and that of other officials, we are proceeding normally. It is all very cosy; we all know each other, we have established good relationships and we are managing the process while thinking about implementation and softening the sharp edges. Is that broad description of your relationship correct?

**Neil Couling:** Do you mean at official level?

**The Convener:** Yes.

**Neil Couling:** It is absolutely correct.

**The Convener:** Good.

Let us go back to the September meeting between the cabinet secretary and Iain Duncan Smith. What issues were discussed at that meeting? Was it a good—or a reasonable—meeting?

**Neil Couling:** I was not at that meeting, so I cannot comment on its atmosphere. I think that the cabinet secretary is coming to give evidence to the committee this afternoon. Perhaps you can ask her for her view on it.

**The Convener:** Yes. We wanted Iain Duncan Smith here this morning to ask him what had taken place at that meeting. We would like a balance, although we are quite happy to hear the evidence from the cabinet secretary this afternoon.

When was it first evident to you that there may be a problem with the LCM?

**Neil Couling:** It was when the Scottish Parliament debated and agreed the motion.

**The Convener:** Until that point, did you expect that there would be no problem with the LCM?

**Neil Couling:** It certainly came as a surprise to us that there was a problem. The LCM is on a reasonably non-controversial area, as other witnesses have pointed out. It will not inhibit the United Kingdom Government's ability to implement welfare reform, and not to pass it would give the Scottish Government a number of difficulties.

**The Convener:** So, in those 70 meetings, and in the meeting between Iain Duncan Smith and the cabinet secretary, the LCM was not an issue. You were proceeding as if we had accepted the LCM.

**Neil Couling:** The Scottish Government officials had never said that it was in the bag, but I think that they recognised that the Scottish Government either needs to pass a legislative consent motion or legislate for itself. Otherwise, it will not be able to run some of its devolved responsibilities after the Welfare Reform Bill is enacted.

**The Convener:** Was that issue raised in any reports that you have read about the meeting between Nicola Sturgeon and Iain Duncan Smith? Was the possibility that we would oppose the LCM raised at that meeting?

**Neil Couling:** I have no knowledge of that; I have lost track of the time in which all that happened. When did the Scottish Parliament pass its motion against the LCM? Was that in August?

**The Convener:** It was in October. The meeting was in September.

**Neil Couling:** I do not know the answer to that question. I am sorry.

**Gil Paterson:** Can I ask a question?

**The Convener:** Fiona McLeod can go first.

**Fiona McLeod:** My question follows on from that, and from almost everything. We have discussed the quantity of meetings, but you are not sure about the timescale in which certain things happened. The issue is more to do with the quality of meetings, and the quality of your briefing and preparation for coming here today.

I will give a specific example on housing, in which it is obvious that quality is completely missing. When you put the cap on housing benefit that relates to the number of rooms that a family can have, it will directly affect 90 families in Scotland who have more than six children, because housing law in Scotland says that people must not over-occupy a house, so in introducing a cap based on the number of bedrooms in a house, you will directly contravene Scottish legislation. You said that you have had a lot of meetings, and that it is only about smoothing the edges, so how did that one get past you?

**Neil Couling:** It was certainly not an issue that was raised with me.

**Fiona McLeod:** So, it is irrelevant.

12:45

**Neil Couling:** We are being asked narrow questions about the legislative consent motion. It is for the Scottish Parliament and the Scottish Government to choose how to respond to the

Welfare Reform Bill. The LCM seems to have become caught up in general anxieties around the welfare reform policies. We accept that they are of interest all over the United Kingdom and we talk daily to various people about them. The bill is going through the House of Lords at the moment and is getting the most detailed scrutiny possible there.

I cannot give answers to all your questions because I was not at all the meetings where everything was discussed, but the answer to the general question whether there are regular fruitful contacts between Scottish Government officials and Westminster officials is yes.

However, whether we would change our policy on a reserved matter is, ultimately, for the UK Parliament to decide. It is not something that I could agree with officials in the Scottish Government.

**Gil Paterson:** I want to get an understanding of the somewhat cosy arrangement that you seem to be describing. Are the cordial arrangements that you have with Scottish officials of a technical nature rather than a policy nature?

**Neil Couling:** There is a shared desire to run the Administrations as effectively as possible.

I persuaded our ministers to include in the Welfare Reform Bill powers for the Scottish ministers to enact consequential changes to Scottish Parliament legislation in respect of welfare reform. I thought that that was being helpful; it is clear from my discussions with Scottish Government officials that they also thought that it was helpful.

It is ultimately for the Scottish Parliament and the Scottish ministers to decide. You are sovereign on the matter and you can decide that you do not want to take the powers. It will then be for you to work out how you run your system of free school meals without being able to adapt your legislation. As I understand it, you could decide to pass a bill in the Parliament to give yourselves the necessary powers.

There are similar concerns about the blue badge scheme. If you want to continue to run the scheme with the personal independence payment, you will need powers to change the legislation. The powers in the Welfare Reform Bill will allow Scottish ministers to do that. The matter will not be dictated from Westminster; the powers to decide that will go to Scotland.

As I understand it, under the Sewell convention, if you do not agree to the legislative consent motion, we have to remove the powers from the bill by amendment by the last legislative stage. That is what we will probably have to do.

Ultimately, what you want to happen on that is a question for you.

**Gil Paterson:** Were you engaged in the technical aspects of allowing that to happen or in the policy behind it?

**Neil Couling:** I did not talk particularly to Scottish Government officials on reserved matters, just as they would not talk to me about devolved matters.

There is a slightly grey area. When is a devolved matter not a devolved matter? Let us take housing, for example. Clearly, changes to housing benefit have the potential to affect a housing policy down the line—we explored some of that in previous questions from the committee—but the discussions quite properly related to the various Governments' responsibilities.

I would describe the relationships not as "cosy" but as effective and workmanlike. Scottish Government officials act in accordance with instructions from their ministers in the same way that UK officials act on instructions from theirs. That is how the constitution works.

**Richard Lyle:** Sorry, Mr Couling, but did I detect a threat with regard to the LCM?

**Neil Couling:** No.

**Richard Lyle:** If we do not agree to it, woe betide us.

**Neil Couling:** No. Let me give a good example. The bill will abolish income support and jobseekers allowance and replace them with universal credit but, under Scottish Parliament legislation on free school meals, income support and jobseekers allowance are qualifying conditions for free school meals, so you will need to change that legislation. In the bill, we are offering you a power to do that. You could choose not to take that power by not agreeing to the legislative consent motion and then you could enact legislation yourself. That is up to you. There is no threat. I know that this is hard to believe, but we were trying to be helpful. The issue seems to have been caught up in a general anxiety about welfare reform. I understand that—that is politics—but, as a strict matter of fact, in this case we are offering the Scottish ministers the power to make consequential amendments to legislation. If you do not want that power, we can take it out of the bill. That is not a threat; it is just a straight fact.

**Richard Lyle:** My mother always warned me to beware of people bearing gifts.

**Neil Couling:** I do not think that I am Greek.

**Richard Lyle:** If we factor in all the changes, by how much does the UK Government hope to reduce the benefits bill each year?

**Neil Couling:** Do you mean for the UK or for Scotland?

**Richard Lyle:** I mean for the UK.

**Neil Couling:** It is £18 billion by 2015.

**Richard Lyle:** How much would it be for Scotland?

**Neil Couling:** It is about £2.5 billion.

**Bob Doris:** You have given us helpful information on issues in the legislative consent memorandum, for example in relation to passported benefits. However, you acknowledged that, understandably and correctly, the issue has become caught up with the wider implications of welfare reform. It would be wrong for the Scottish Parliament to negate our moral responsibility to take a stance. We do not have the power to change and block the reforms, but we have the power to use the legislative consent motion as a vehicle to show opposition. We understand that, politically, that is the situation. I am grateful for your evidence, although it is disappointing and disrespectful that the UK Government has not shown political leadership in the committee. As the convener said, I hope that the UK Government will reconsider its position. There should be parity of esteem between our Parliaments, but the UK Government is clearly not demonstrating that at present.

Do you understand the issues that this Parliament has when UK welfare reform will, for example, undermine the social housing and sustainable communities policy that the Parliament has taken since its inception, or our policies on care for the elderly and the disabled and our proposed bill on self-directed support at home? Policy intent after policy intent in the devolved context will potentially be damagingly undermined by UK welfare reform.

I will refer to two proposed examples of UK welfare reform and ask what cognisance you have taken of the Scottish situation. The first relates to childcare. Single parents of children who are five or over will actively have to seek work or they will face benefits sanctions. The second relates to the abolition of the Child Support Agency and the introduction of a £100 gateway for people who want to access support to get a settlement with an absent parent. Before the bill was introduced, what information did you seek on childcare provision in Scotland to find out where the pressure would be? What representations did you make to the Scottish Government or others in relation to the scope of mediation services in Scotland? Those are two devolved policy responsibilities that will be directly impacted by UK benefit reforms. What information did you seek at the outset?

**Neil Couling:** I will begin by referring to my answer to Mr Lyle. Governments throughout Europe are considering fiscal consolidation. That is what that reduction of £18 billion is about. That is not easy. Everything is connected in some way or another. Reducing spend on benefits takes money out of people's pockets but, if you are not going to take it from benefits, you will have to take it from somewhere else. In a devolved context, that manifests itself through changes in the block grant that comes to you. The fact is that social security accounts for around a third of Government outlay, and the coalition Government chose to take some savings from that.

With regard to the availability of childcare, I point out that, in moving the age of conditionality from seven to five, we are not imposing full conditionality on lone parents with children who are five. If childcare is not available, we are considering conditionality based on the time that the child is in school. Conditionality is not based on making people work 40 hours a week, even if no childcare is available.

Secondly, under our universal credit proposals, we are, at a cost of £300 million, extending childcare provision below the 16-hour limit that is in the current tax credit legislation. We are expanding help for childcare and are not extending full conditionality to lone parents with younger children. In that sense, therefore, the availability of childcare is a bit of red herring because we do not expect childcare to be required for parents to be able to meet the conditionality requirements.

Did your question on CSA relate to fees?

**Bob Doris:** It related to the £100 gateway fee to use the structures that are to be put in place. I also asked about the impact on mediation services in Scotland for those seeking a voluntary settlement.

**Neil Couling:** It has been a while since I considered this area in detail but from memory I think that Scotland does rather better on mediation services with regard to outcomes and the arrangements that are struck than the rest of the United Kingdom. I am not aware of any proposal for funding more mediation services but as I might be in a bit of deep water without any flotation support in that regard I will, if you are content, write to you on the issue.

**Bob Doris:** I realise that you have indulged me this morning, convener, but I have a final very brief question.

Mr Couling, you mentioned conditionality in relation to childcare and said that you will take into account when the child is at school and a range of other aspects. I assume that those conditions will be set out in subordinate legislation that will be introduced in due course. Given that childcare and, indeed, education are Scottish Government

and local authority responsibilities, do you think it reasonable to seek the approval of the Scottish ministers for any such subordinate legislation before it is approved? Both this week and last week, many people from the voluntary sector have given evidence that you should seek the Scottish ministers' consent to any subordinate legislation that might directly impact on services that are devolved to Scotland.

**Neil Couling:** The way you have asked the question exposes the extraordinary difficulty of doing what you have proposed. You conceive of the subordinate legislation as something that will touch on childcare responsibilities; I conceive of the regulations as specifying the conditionality requirements and therefore not touching on the devolved Government's area of responsibility. That is why it is very difficult to envisage a situation where the Scottish ministers would grant some form of consent in that respect. We would be in constant discussion—that would be the nicest way of describing it—over whether any such regulations would trigger a devolved issue. I cannot think of any way of defining such a power that would preserve the constitutional arrangements of the devolution settlement.

13:00

What we have offered instead is our commitment to continuing discussions. We share draft regulations with Scottish Government officials and take their representations on them. We talk extensively. If a particular issue needed to be escalated to ministerial level, either side could do so. However, it would be extraordinarily difficult to operate such a condition if it was put on the face of the Welfare Reform Bill; it would be very bureaucratic and cumbersome, and it is not something that attracts the UK Government.

**Bob Doris:** Has it been ruled out?

**Neil Couling:** I think that it has been.

**The Convener:** We will not keep you much longer, Mr Couling. We appreciate your time.

You said in your submission that there were on-going discussions with a focus on kinship carers and child poverty. Do you want to take the opportunity to give us an update on those discussions? Is there anything to report on those areas, other than that they have been identified for future discussions?

**Neil Couling:** No—they are under on-going discussion right now at the request of Scottish Government ministers, which was agreed by my ministers. We are trying to satisfy ourselves that the particular arrangements that are made in Scotland are reflected fairly in the Great Britain legislation and in the benefits system. We have

not reached any conclusions on that at the moment.

There was a very interesting court case in Kirkcaldy about special guardianship orders. We are currently exploring the extent to which that is a relevant factor within the Scottish jurisdiction—we are trying to understand all that. It is a rather complex area. We are looking at it and trying to conclude whether people in Scotland are disadvantaged compared to people in the rest of the United Kingdom because of the way in which the rules are configured. Our objective is to make sure that kinship carers in Scotland are not disadvantaged.

There are differences in Scotland. There is a definition of kinship care in law in Scotland that does not exist in England and Wales. We are still exploring whether that becomes a relevant factor in the determination of entitlement to benefits.

You asked me about cosy—or otherwise—relationships. This is an example of where we are trying to work together to come up with a sensible outcome for both Governments. As I understand their positions, both ministers think that kinship care has an important part to play in the bringing up of children in sometimes very difficult circumstances. We are entering into all that in good faith and with open minds. We are just trying to check that the situation is equitable across the United Kingdom.

**The Convener:** The Scottish Government has the support of this committee—and had the support of our predecessor committees—in the area of kinship care. Our briefing tells us that that was certainly an issue that was discussed in the meeting with Iain Duncan Smith, which indicates that it is a clear priority in relation to our response to the LCM. We would like to be kept up to date about that area as a demonstration that constructive discussion is taking place and that there is an opportunity to influence aspects of the bill, given its impact on our policies here in Scotland.

**Neil Couling:** I am more than happy to commit to keeping this committee up to date on our progress in that regard, because I know that my secretary of state shares your view on the positive role that kinship carers can play in the upbringing of children.

**The Convener:** We will finish on that optimistic note. Thank you very much for your time and your evidence this morning. As previously agreed, we will move into private session for a short time.

13:04

*Meeting continued in private until 13:10.*





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