



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Monday 27 October 2014

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE

26th Meeting 2014, Session 4

CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

DEPUTY CONVENER

*John Wilson (Central Scotland) (Ind)

COMMITTEE MEMBERS

*Cameron Buchanan (Lothian) (Con)
*Mark McDonald (Aberdeen Donside) (SNP)
*Stuart McMillan (West Scotland) (SNP)
Anne McTaggart (Glasgow) (Lab)
Alex Rowley (Cowdenbeath) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jeff Ace (NHS Dumfries and Galloway)
Andy Brown (Scottish Woodlot Association)
David Coulter (Dumfries Third Sector Interface)
Kay Gilmour (East Ayrshire Council)
Amanda Macaulay (Dalbeattie Community First Responders)
Louise Matheson (Dumfries and Galloway Council)
Geraldine McCann (South Lanarkshire Council)
Douglas Scott (Scottish Borders Council)

CLERK TO THE COMMITTEE

David Cullum

LOCATION

Easterbrook Hall, Dumfries

Scottish Parliament

Local Government and Regeneration Committee

Monday 27 October 2014

[The Convener opened the meeting at 14:30]

Subordinate Legislation

Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 (SSI 2014/233)

Town and Country Planning (Control of Advertisements) (Scotland) Amendment (No 2) Regulations 2014 (SSI 2014/249)

The Convener (Kevin Stewart): Good afternoon and welcome to the Local Government and Regeneration Committee's 26th meeting in 2014, here in the Gilchrist room of the Easterbrook hall in Dumfries. I ask everyone to switch off their mobile phones and any other electronic devices, because they interfere with the broadcasting system. Members will use tablets during the meeting, because we provide papers in digital format.

Before we start, I thank the organisations and individuals who have helped the committee to organise today's event. In particular, I thank the staff at Dumfries and Galloway Council, Dumfries third sector interface and the Easterbrook hall. I also express my gratitude to the folks from the Usual Place, who gave an enlightening presentation to the committee earlier today, and to all the folks who participated in the event that we have just come from.

At the end of today's formal meeting, we will have a short, informal question-and-answer session for those who are watching from the public gallery. It will be an opportunity to put questions to the committee about what has been discussed today. I shall say more about that after the formal meeting has finished.

We have received apologies from Alex Rowley MSP and from Anne McTaggart MSP, who are unable to attend.

Under agenda item 1, we will consider two negative Scottish statutory instruments: the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 (SSI 2014/233) and the Town and Country Planning (Control of Advertisements) (Scotland) Amendment (No 2) Regulations 2014 (SSI

2014/249). Members have a paper from the clerks setting out the purpose of the instruments. The Delegated Powers and Law Reform Committee considered the instruments and drew to our attention several issues, which are set out in the clerks' paper.

Do members have any comments on either of the instruments, or on the comments from the Delegated Powers and Law Reform Committee?

Members: No.

The Convener: That being the case, are we agreed not to make any recommendations to the Parliament on the instruments?

Members *indicated agreement.*

Flexibility and Autonomy of Local Government

14:31

The Convener: Agenda item 2 is consideration of the Scottish Government's response to the committee's report on its inquiry into the flexibility and autonomy of local government in Scotland. The committee is seeking an opportunity to debate the findings of our report in the Parliament. As soon as the date of such a debate is agreed, members will be informed by the clerks. If members have no comments on the response, are we agreed that we will consider the Scottish Government response and, beyond the previously agreed plenary debate, what further action, if any, we wish to take, and indicate the extent to which we wish to utilise any aspects of the on-going stage 1 consideration of the Community Empowerment (Scotland) Bill?

Members *indicated agreement.*

Petition

Supermarkets (High Streets) (PE1497)

14:32

The Convener: Agenda item 3 is petition PE1497. On 30 September, the Public Petitions Committee referred PE1497, by Ellie Harrison, to the committee. The petition calls on the Scottish Parliament to urge the Scottish Government to give local councils and communities the power to stop unwanted supermarket expansion on their local high streets. Do members feel that the petition has any relevance to our scrutiny of the Community Empowerment (Scotland) Bill and, if so, can we give the clerks direction on which areas of the bill we feel that the petition is relevant to? We have already started asking questions on the issue in relation to the bill, and I suggest that we continue in the same vein and allow such questions at relevant points during our scrutiny of the bill. Are members agreed?

Members *indicated agreement.*

The Convener: Should we leave the petition open or close it? My feeling is that we should keep it open until we have dealt with the scrutiny of the bill. Is that agreed?

Members *indicated agreement.*

Community Empowerment (Scotland) Bill: Stage 1

14:33

The Convener: Item 4, our final item of business, is our fourth oral evidence session on the Community Empowerment (Scotland) Bill. Two panels will give evidence this afternoon. I welcome the first panel: Andy Brown, secretary of the Scottish Woodlot Association; David Coulter, chief executive of Dumfries third sector interface; and Amanda Macaulay of the Dalbeattie community first responders. I apologise to Amanda Macaulay, whose name was spelled wrongly on the agenda; that will be corrected on all the formal papers that will follow.

I invite you all to make an opening statement.

Amanda Macaulay (Dalbeattie Community First Responders): I am the local co-ordinator of the Dalbeattie community first responders. I do not know how much you know about us. We are a group that was set up through the Scottish Ambulance Service and we assist local crews on what are termed time-critical calls. We are sent to things such as cardiac arrests, breathing difficulties and medical collapse. We went live on 12 February and since then, although we do not operate 24/7, we have assisted on 133 calls.

We were originally set up to assist with calls in Dalbeattie, but we decided that we would go where we are needed and we have been to almost all the smaller communities in our area, as well as up to Castle Douglas, where the ambulance station is based. A group of us have also now trained as heart start instructors, and in the new year we will be taking our new skill out into the community to train people in cardiopulmonary resuscitation. We are totally self-funding and, with the exception of six jackets and a bag with some oxygen and a couple of masks, we have bought all our own training equipment and our own defibrillator. We have also taken possession of two public access defibrillators, which we will maintain, again adding to our running costs.

The group is quite expensive to run. Medical equipment costs a tremendous amount of money and we need to use quite a bit, but we are proud of our financial independence, as we are aware of the pressures that the national health service faces. That has predetermined us to be as independent as we can be, not a drain on valuable resources.

Andy Brown (Scottish Woodlot Association): I would like to thank you, on behalf of the Scottish Woodlot Association, for inviting us along to the committee. We are a co-operative of forestry

workers who lease forest land from landowners in Scotland. Scotland has the most concentrated land ownership in Europe, and we are offering working people a chance to achieve forest tenure. We think that the Community Empowerment (Scotland) Bill is an excellent opportunity to take our work to the next level and to offer a lot more people the opportunity to achieve forest tenure in Scotland.

David Coulter (Dumfries Third Sector Interface): I head up the local interface, which is one of 32 in Scotland. The issues that interfaces across Scotland deal with have been presented to the committee in evidence by Voluntary Action Scotland, and I would like to make reference to a couple of points that VAS has already made. One of the most important points is that the guidance that follows the bill must give clarity on the role of third sector interfaces. My specific concern is that, if we are to improve the capacity of community bodies, however defined, to respond to some of the opportunities that will be provided when the bill becomes law, we must address how those organisations and community bodies can take up those opportunities and build their capacity in a way that involves sound governance and financial management, so that our public sector partners have confidence that we as a sector can deliver.

It is interesting that the witnesses on either side of me represent two very different examples of the third sector. Members know the diversity that exists out there and I think—I would say this, would I not?—that there is a huge opportunity in the bill for that diversity to come to the fore and help us find solutions to some of Scotland's bigger problems.

The Convener: Thank you very much.

Why are the powers for participation requests and asset transfer requests necessary? Do you think that public bodies are ready to deal with those?

David Coulter: On Thursday morning, your colleague John Swinney asked, "Why do we need a community empowerment bill to empower communities?" It was a good question, because the answer from my perspective is that we should be ensuring the empowering of communities as a matter of course. However, the reality is that that does not happen without some catalyst, and I regard what is proposed in the bill as a catalyst for change.

The power for asset transfer requests brings greater clarity to the process and greater opportunity. Is the public sector ready to respond to that? Well, I have my doubts, some of which I expressed in private conversations with members this morning and in the earlier group discussion. I think that there needs to be a long-term change in

culture around the way in which public authorities view assets.

My sense is that there is often a culture working within public bodies such that they regard assets as being owned by them. That might be the legal position, but the reality is that we as a community in Scotland own them. There are issues around that which we will need to address. At my table earlier, people described the frustration that they have felt when going through the process of acquiring an asset, whether they were leasing or purchasing it. That is a tangible issue that can be addressed by a change in culture.

I am not sure that either the third sector or the public sector is prepared for participation requests. It will be very interesting to see how participation requests will operate in practice. I think that that is where some of the guidance around the bill will have its impact. In a sense, I am asking the committee a question about that, for which I apologise. What do you expect participation requests to lead to? I would hope that they would lead to very profitable conversations about how we address some of our big issues around, for example, our growing elderly population and youth unemployment. If participation requests are used simply to address parish-pump politics, I think that we will all miss the point. I have some questions about how that will operate, but the answer to whether it is welcome is yes.

The Convener: Before I bring in the other two panellists, I want to ask you about what you said about the ownership of assets. Earlier, we discussed whether there is difficulty in identifying who owns an asset. For example, is it held as part of the common good, or does it belong to the council? Is there a lack of asset registers in this neck of the woods that say who owns what?

David Coulter: I do not know of a register of publicly held assets in Dumfries and Galloway, although there is probably something like that out there. A more publicly available asset register would be of benefit to the third sector and to local communities, provided that it was known about and publicised. There is an awful lot of stuff out there that communities do not know about and therefore cannot access.

Having an asset register is a great idea, but I might go one step further and suggest that we add to such a register those bits of derelict and unused land that we do not know who the heck owns them or whether they are publicly or privately held. Such land should be part of an asset register so that we have a clearer picture across our communities about what is not being used for the greatest benefit of communities. There are bits and pieces of land in our communities that are way underused and could be much better used. However, I cannot

say whether that land is held in public or in private ownership.

There is a second part to my answer that makes a cultural point. The issue is not legal ownership but the sense that much of our land and buildings in Scotland needs to be held for the commonweal or common good. It is welcome that the bill addresses those areas of land, too. I would therefore extend the register to include those bits of land too, wherever possible.

The Convener: We are likely to return to that.

I invite Ms Macaulay and Mr Brown to comment on participation requests and whether public bodies are ready to deal with them.

Amanda Macaulay: We deal with the Scottish Ambulance Service and we do not really have any big problems. With regard to ensuring that public bodies do not view people who want to help as more of a hindrance than a help sometimes, we volunteer but we are not always given the help that we need to volunteer. The problem is that the help is inconsistent. When we are asked to do something, we must think about how we can sustain what we are being asked to do. When we volunteer, we run up against the problem that the public body is enthusiastic when it starts us off but its enthusiasm wanes before ours does.

We are in a slightly unusual situation, because we are controlled and run by the Ambulance Service and we just do exactly as we are told. We do not have the freedom to decide what we want to do, or to ask the Ambulance Service whether we can use different bits of equipment and so on. I am afraid that the question on participation requests is a fairly hard one for me to answer. We have had no problems at all in dealing with the Ambulance Service so far. However, I believe that the service is underresourced.

14:45

Andy Brown: We certainly see an opportunity in the bill as it is drafted for a non-profit co-operative such as ours to lease land from the state, from either Government or local authorities. However, we have identified one key issue. The biggest forest landowner in Scotland is the state and Government ministers, with the land being managed by the Forestry Commission Scotland. The Public Services Reform (Scotland) Act 2010 is very specific on the bodies that can lease land. While the bill that is before us could in theory enable a non-profit co-operative to lease land from the Forestry Commission, the 2010 act says that only companies limited by guarantee can do so, which would exclude us. One key solution would be to amend the bill to enable such co-operatives to take advantage of its provisions.

The Convener: One issue that has come up quite a lot today is that organisations find it very difficult to get the right person to deal with their request, particularly with regard to asset transfer and leasing or buying a particular property or piece of land. Would you support having a named officer as a point of contact for all community groups to deal with participation requests or asset transfer requests?

Amanda Macaulay: Yes, I would.

David Coulter: Yes, but with the caveat that such a person would need to be appropriately qualified and understand what we are trying to achieve. The obstacle is not necessarily the named person but how that named person operates. The frustration that has been reported to the committee is not necessarily about the individual; it is about how an individual functions in the role. That is often a barrier.

Andy Brown: Yes, there is a great opportunity from a land point of view. The land reform review group was looking at setting up a land commission of some sort. I think that that could also operate with community empowerment and look at local state-owned assets. An officer working on that would be very helpful.

The Convener: Could any elements of the bill be improved on? That is a very difficult question, but Mr Coulter is about to have a go.

David Coulter: Yes. On the role of the third sector interfaces, we do not want to be on the face of the bill, because we want to retain our independence and not be considered in any shape or form as a statutory body. Our role is perhaps not for the bill but for the elements that will underpin the legislation when it becomes an act. Given the investment in setting up the 32 interfaces, we need to be clear about what the role of those interfaces should be not just in asset transfer but in capacity building in communities, assisting in participation requests and providing support to organisations.

If I was answering the named person question from the other side of the fence, I would say that that person should be the third sector interface. We need that strategic input and that one point of contact to which groups can come for advice. Obviously, that will have resource implications for third sector interfaces as we move forward.

I am not sure that it is clear exactly what the bill is trying to achieve in relation to the third sector or in what it says about community planning.

Amanda Macaulay: On the whole, you need to simplify the way in which you do things. I am reasonably intelligent and I had to read the bill about four or five times before I got a grasp of it. It was not until I found the easy-read version that I

suddenly realised what it is about. Members of the Scottish Parliament do this kind of thing all the time, because that is your job, so it is probably easier for you to understand these things—

The Convener: Don't bet on it.

Amanda Macaulay: I work full time—I am self-employed—and this week I have done more than 60 hours of volunteering, so I do not really have time. A lot of people have time constraints, and reading bills and so on is quite threatening. Even minor things are challenging; we want to become a charity so that we can claim back VAT, because everything that we buy costs a fortune, but the process is unbelievably complex.

It would be good if things could be streamlined so that it was easier for the man or woman in the street to become a volunteer. Sometimes the processes seem a little difficult and threatening for someone who wants to volunteer or run a group. I have used third sector first a lot, and it has been brilliant, but it can only take you so far and then you hit a brick wall and think, "Oh, what do I do next?"

The Convener: So we should cut the gobbledygook.

Amanda Macaulay: Yes. I understood the easy-read bill.

Andy Brown: I agree that the bill is complex, because it covers complex issues to do with land ownership and asset transfer and it refers to numerous other acts. We really welcome the gist of the bill, in that it is about asset transfer. On what would improve the bill, the issue from a forestry perspective is that Scotland's largest forest owner will not be able to lease woodland, and leasing is a key element of the bill.

Mark McDonald (Aberdeen Donside) (SNP): Mr Coulter touched on a point that I wanted to raise. The third sector comprises a multitude of organisations, which range from charities that have large amounts of money in reserve to small organisations that can be one or two-person operations. Do you envisage the role of third sector interfaces as being to provide support to much smaller third sector organisations, which might not have the human and financial resources to enable them to take forward opportunities that the bill will open up for them?

David Coulter: The short answer is yes, but let me expand on that. My organisation has not yet reached a point at which we are able to distinguish need from demand. I would not necessarily portray some of the larger organisations as well resourced in the context of their capacity to respond to what is in the bill. I would not assume that a large charity necessarily had that capacity. As I said, the answer is yes, but I have not yet got my head

round how support would be provided, and I would not make assumptions about some of the big organisations.

For interest, the income of charities in Dumfries and Galloway—not the whole range of organisations to which you referred but the charitable organisations that have a registered address in the region—is about £100 million. However, only a handful of those charities have a turnover of more than £1 million; for the rest, turnover is substantially below that level. We are talking about a significant number of organisations that are in need, so how we address need is a complex question.

Mark McDonald: We talked about the need for a single point of contact. Is there a disparity in how different public bodies in Dumfries and Galloway deal with community organisations and third sector groups? Is there good and bad practice? How do we ensure that good practice is shared and bad practice is dealt with appropriately?

David Coulter: Let me pause and be careful how I answer your question. There is good practice, but there is also a lot of bad practice. I will frame my answer slightly differently. We have embarked on a cultural journey in Scotland, but I seriously believe that we have a long way to go in our approach to community empowerment and development.

I sit on an executive group of chief officers—I am conscious that the chief executive of NHS Dumfries and Galloway is sitting behind me. Over the 18 months that I have been involved in that group, we have developed a strong strategic view of what the relationship between public bodies and the third sector should be. However, that is not necessarily filtering all the way down to individual third sector organisations. I cannot really speak specifically for local communities and for community councils per se. However, I can tell you that many community-based third sector organisations are often very frustrated by their relationships with public bodies. That is a cultural problem, not a structural one.

Mark McDonald: I have a final question for all the panel members. Something that has come up on numerous occasions is the difference between communities that are active and engaged, and communities that have a lot going on—there is no doubt about that—but may not have the capacity within them to go to the next level of taking on some of the responsibilities that the bill would enable them to take on, such as leasing or owning an asset. Does the responsibility for creating that capacity in communities fall to public bodies, or is there a role for the third sector as well in empowering communities to take that next step?

Andy Brown: That is pretty much exactly what we have done. We were a grass-roots group of forestry workers who formed a co-operative, literally on the forest floor, and took it forward to try to lease land from landowners. We are a voluntary group—it is a non-profit co-op. In some ways, although the top-down approach that you mentioned is probably better resourced, a ground-up approach such as the one that we have taken is perhaps more effective in engaging local folk.

Mark McDonald: Were you given any support to help you get established in the first instance? We find that, in some communities, there is already the capacity within the community for it to go to that next step. Other communities may need a bit more support at the initial stage to get them to that level.

Andy Brown: We got support from Scottish Enterprise locally and from Co-operative Development Scotland, which helped us get established.

Amanda Macaulay: We did not have a problem with getting established. We were set up by the Scottish Ambulance Service, we are used by it and we have a good system in place with it. We train every month and it has been very supportive.

I wanted us to be completely self-funded, which not all units are, because I think that it is important that, if communities want extra, add-on things that are not already supplied, they should supply those things themselves. I know that it sounds minor, but buying our own defib meant that I had to ask my community for not shy of £2,000. It feels to me that it is less likely that we will fail because that money has not just been handed to us by a public body—by some faceless people. It is from people I know in the street. It will keep a lot of community organisations running if they have to depend on themselves, rather than just turning to the public sector every time they want something.

David Coulter: The answer to your question is relatively simple but needs to be qualified. The third sector is quite capable of taking on an awful lot of what the public sector currently takes responsibility for. Our public sector in Scotland—particularly local authorities—is now delivering services in areas where it was never intended in statute that it should deliver them. The sector that has suffered as a result of that is the third sector—self-help and doing things for ourselves in communities.

It comes back to the culture question. I would argue that the third sector can and should do more and we need the support of our public sector partners to make that change. That support needs to come from across the piece, not just from chief officers and elected members but right down to staff on the ground.

The Convener: You have mentioned culture a number of times now. Is a lot of that to do with a lack of common sense and a lack of joined-up thinking at times?

15:00

David Coulter: No. There is a bit of that—it exists in all parts of life—but there is something else in play. We need to recognise that not all parts of the third sector have necessarily had the right governance and financial scrutiny of their affairs. People in the public sector have significant concerns about whether they are being diligent and making the right decision in putting something out to the third sector and relying on it to deliver. Although I am saying that public sector partners need to be more confident that the third sector can deliver, I am in no doubt at the same time that our job as an interface is to work with the third sector to improve its governance, to improve the way in which it manages its finances and—I would go one step further—to make it more enterprising. You will hear from my colleagues on either side of me about the co-operative approach and a more enterprising way of doing things, and about the community-based approach and an independent, self-reliant way of doing things, which is equally enterprising.

It is not all about people not applying common sense, although that happens; it is also about there being an issue for us as a sector to address. It is a two-sided coin.

The Convener: I do not want to put words in your mouth, but are you saying that there is a certain amount of risk aversion out there?

David Coulter: Yes. We had this conversation this morning, so I am not going to give you a different answer this afternoon.

The Convener: It is now on the record, Mr Coulter. We are grateful for that.

Cameron Buchanan (Lothian) (Con): Mr Brown, referring to section 53, you say in your submission that you would

“like to see the inclusion of Industrial & Provident Societies (IPS) – with appropriate rules – in this section.”

Can you expand on that for us, please?

Andy Brown: Yes. When we set up our industrial and provident society, which is a co-op, we were very careful about the terms that were in our rules. We set up our IPS with the help of Co-operative Development Scotland and Co-operatives UK. Basically, we put in many of the key terms that would be looked for in a company limited by guarantee—for example, an asset lock so that the assets could not be sold off—and the co-op is non-profit distributing. Those are two of the key things that we put into our rules when we

set up the co-op. That is really what we were referring to in our submission.

Cameron Buchanan: You also said that small woodlot licences could be similar to the requirements for allotments. Would that not be a bit complicated? You ask us to consider it, but it would seem to be rather a complicated thing to administer or to define. Do you agree?

Andy Brown: Not really. A woodlot is basically a forest allotment and it has been called allotment forestry. What we are saying in the part of our submission that you refer to is that the bill's key reference to allotments is about their being non-profit. The small-scale woodlot would have to be just for domestic firewood use. We think that there would be a big demand from rural people for small pieces of woodland that they could get their domestic firewood from. A system that included woodland allotments would probably be no more complicated than our current system—it would just mean that there would be, hopefully, a lot more allotments.

Cameron Buchanan: So you would not define an area for a woodland allotment—for example, so many square metres or a hectare?

Andy Brown: It would depend on the productivity of the wood.

Cameron Buchanan: Right. Thank you.

John Wilson (Central Scotland) (Ind): Good afternoon. First, I want to concentrate on Mr Coulter's comments about scrutiny of the governance of third sector organisations. Mr Coulter, you said that you would want the public sector to be confident about the organisations that it deals with. I think that that goes to the heart of the bill. The question is how the third sector gives confidence to the various agencies that it wants to engage with that it is capable of carrying out its tasks in relation to community asset transfers. How far would you take that in relation to scrutiny, and who would carry out the scrutiny?

David Coulter: If there is a tender, I think that the scrutiny still has to rest with the commissioning or tendering body. If there is an asset transfer, the scrutiny needs to be done, again, by the public body that starts the transfer and should be done at the stage of analysing the business plan.

I suggest—I hope not too controversially—that communities are often attached to an asset, usually a building, and want to keep it when it is under threat but have not built the plan to bring it back into productive use and maintain it in productive use to ensure that they do not constantly go back to their local authority for a grant. That is where the interfaces come in. Our job is to build the capacity of third sector organisations to be more enterprising, to use the

Scottish Government's language. I apologise for the jargon, but it is really important that we understand that the era of grants is nearly over and that the third sector, such as Amanda Macaulay's organisation, has to make sure that it is self-sufficient.

That is where the scrutiny must lie on asset transfer. We must not transfer assets simply because someone is attached to a building. If an asset has no future life in it, the community should not go anywhere near it, to be frank. However, that scrutiny role must rest with the public body. The confidence comes from those organisations being supported by 32 competent interfaces.

John Wilson: One of the issues that is raised in the bill is what happens if a public body refuses to transfer an asset. I take on board your comments about the need for a business plan to be in place before a community group makes an application for the transfer of an asset. I hope that the majority of community organisations or third sector organisations that request an asset transfer would have viable business plans in place before they make the request.

If a community organisation has what it considers to be a viable, sustainable business plan in place and the public body refuses to transfer the asset, should there be a right of appeal? In effect, you have just said that it would be up to the public body to determine whether the plan was sustainable and viable and whether the organisation could take on the public asset. Should the decision on whether to transfer a public asset rest only with the public body?

David Coulter: I am reluctant to suggest that we create an industry out of asset transfers and a planning-like system of applications and appeals so, almost instinctively, I am about to say no. I am also aware that public bodies are capable of making what appear on the face of it to be unjust decisions. How do we challenge that? I am not giving you a full answer because I am asking myself questions as I provide you with an answer. I would have thought that, if the business plan or the sustainability of the project was sufficiently well thought through, it is unlikely that we would find ourselves in the position that you describe, unless you can suggest evidence to the contrary.

John Wilson: At the moment, we cannot provide evidence because we do not know because the legislation is not in place.

David Coulter: Yes, we do not know.

John Wilson: I am trying to presuppose what could happen. Mr Brown has given an example. The Scottish Woodlot Association has had numerous discussions with the Forestry Commission Scotland about co-operatives taking over small parcels of land to allow them to carry

out their functions, but the Forestry Commission keeps on citing the 2010 act to say that it cannot lease land that could come into productive use to a co-operative of workers.

I am trying to tease out what we could put into the bill that would safeguard the interests of a community organisation that has worked to put together a sustainable business plan but, when it takes it to the public body, has its request refused because the public body does not think that it is viable. Who determines the viability of the plan?

David Coulter: The example that you have just given me is not about viability but about the conflict between bits of legislation, as I read it, so it is in your or the United Kingdom Government's hands, not our sector's hands.

The deeper question is around our confidence in our public bodies to assess something fairly. If the decision becomes a quasi-judicial one, there should be a right of appeal, but are we entering into a quasi-judicial decision? I am not sure. We are entering into a contract to exchange land and buildings, and the decision that the public authority has to make is a due diligence one, in the same way as it would make a decision on entering into any other contract.

I genuinely do not want to give a yes answer and say that there should be a right of appeal, because I have not thought the question through, and I have many doubts in my head about creating an industry around those things. As a town planner by profession, I have seen the planning appeal system in operation, and it is abused. If an appeal system is set up, which would, I guess, have to be with an executive branch of the Scottish Government, people who could not take no for an answer would be at the doorstep with umpteen appeals.

Part of what is in my head is the fairness and the route. If the public authorities adopt what is genuinely an engagement process, they will be able to reach a decision that both parties will see as just and fair. If that is what we achieve, we do not need a right of appeal.

John Wilson: As I said, we are not just dealing with local authorities in the bill; potentially we are talking about public bodies. Mr Brown referred to the Forestry Commission Scotland, which is, in effect, a public body. It is run by and on behalf of the Scottish Government.

Mr Brown, in the written evidence that you submitted to the committee, you referred to how the Forestry Commission has dealt with requests for leases to be given for Forestry Commission land. Where have the successes been in taking on board Forestry Commission land? In the private sector, has there been greater success in acquiring leases on private land than there has

been in respect of Forestry Commission land? Currently, the bill does not make any reference to private land as part of community asset transfers. We are talking about only public assets.

Andy Brown: Many tens of thousands of hectares of small woodlands across Scotland are currently unmanaged and have not been managed for the best part of 20 years, if not longer. That land is currently not being used to produce timber. Some of it is in the private sector and some of it is on state land.

The woodlot licences that we have already set up and the landowners with whom we are currently working are all in the private sector. They are all on small or larger estates that have unmanaged areas of woodland. Because we cannot currently set up licences on state land, we have had to pursue the private sector. Woodlot licences are based on what happens in British Columbia, where they are all put on state land because the public benefit to rural areas can be seen. To achieve real benefits in Scotland, we need to get woodlot licences on state land.

The Convener: Before Mr Wilson comes back in, it is important to get something on the record. We probably require more information. The Forestry Commission has a somewhat special status in that it is a cross-border public body that is not entirely governed by Scottish Parliament legislation; it is also governed by Westminster Parliament legislation. I do not know how knowledgeable you are, but we probably require more information on what the logjam—if you excuse the expression—is.

Andy Brown: Yes. I can illustrate that. We have just made a submission on that very topic to the Smith commission. The solution that we gave is an amendment to Scottish legislation, so it could be achieved by the Scottish Government through an amendment to the bill. We think that the most opportune time to achieve it is through this bill.

The Convener: I think that we will get more information on that. You are right to make the point and the cross-border aspect has been highlighted. Sorry, John, on you go.

John Wilson: I do not have another question, convener.

15:15

Stuart McMillan (West Scotland) (SNP): Should there be a national asset register? Would that be useful?

David Coulter: The point that immediately comes to mind is that if everyone contributes to a national register, public awareness will be greater than it would be if there were registers for all 32 local authorities and however many NHS boards

and other public bodies we have—we could have a plethora of registers. If we had a single national register, there would be a greater chance of communities knowing about it and being able to search it.

The Convener: It was the ambition of community planning partnerships to produce an asset register for the public bodies in each partnership. How did that go in Dumfries and Galloway?

David Coulter: I do not know the answer to that. I do not know whether—

The Convener: You are looking at our next panel of witnesses; we can ask them later.

If such registers had already been produced, would life be much easier? We have heard about folk disagreeing about what is common-good land and not knowing who owns land, which is a barrier to the creation of an asset register.

David Coulter: We need to be careful when we try to distinguish between common-good and publicly owned land. I find the issue frustrating. In whose good is the land held? It is held for the good of the community—the public—and I imagine that the legal position is that a public body is the guardian of such land.

The issue for me is not whether we have registers but whether communities make the best use of assets. If we do not know what our assets are, the likelihood is that we are not making the best use of them.

The Convener: Sorry I interrupted you, Stuart. On you go.

Stuart McMillan: If a public body has a plethora of buildings and land but is not fully aware that it owns those assets, how can a small community or community organisation, particularly in a largely rural area such as Dumfries and Galloway, be aware of the assets?

David Coulter: That is some question. If the public authorities do not know what they own—and there is a chance of that; I have had that experience, wearing another hat in another place and at another time—then that is to do with how we record ownership of land in Scotland over time, and we are into a set of questions that I cannot possibly answer here.

Stuart McMillan: It was worth a try.

David Coulter: It was. I come back to the point that I made earlier. I like the idea of a national register, with publicity around it so that people know that it is there. We should be adding to that register bits of underused and unloved private land, and we should make all the people of Scotland aware that those are potential community assets that communities could tap into.

Stuart McMillan: That is helpful, because it takes me to my next question. Section 48 will insert new section 97F, “Register of Community Interests in Abandoned or Neglected Land”, into the Land Reform (Scotland) Act 2003. Do you have a clear understanding of what constitutes abandoned land?

David Coulter: At some point, the bill will need to be made more specific in its definitions—good luck with that, by the way. If there is not a tighter definition, it is inevitable that we will end up in endless debate about whether or not land has been abandoned. As you know, landowning interests in Scotland take the view that it is not for any arm of Government or for the community to decide whether something is abandoned—the view is, “I own it and I will decide how I use it.” We will come up against that element, and a clearer definition would help in that regard.

I can think of examples of specific areas of land, buildings and harbours where the landlord has become absent. The land has not necessarily been abandoned, but the use of the particular asset has not necessarily been in the community interest. The question of abandonment, in my view, therefore does not arise. The question on the best use of a particular asset in the community is a political one, and I think that the committee should address it.

As I mentioned in the earlier discussion session, there are other aspects missing, such as the impact of second homes on some rural communities. One could say, to get to the strings of the argument, that a second home that is occupied for two weeks of the year has been abandoned. How is that for one?

The Convener: That opens up cans of worms that we will not go into. I remind the committee, and inform the witnesses, that large aspects of the land issue will be examined by the Rural Affairs, Climate Change and Environment Committee, and this committee will feed what it has heard here into those deliberations.

Stuart McMillan: I am keen to hear Mr Brown’s comments on the issue of abandonment.

Andy Brown: The land registry is a key element, and it should be developed as soon as possible. As David Coulter mentioned, the issue is partly that communities often do not know what assets they own. There is often a lot of cloudiness around who owns what, which has led in the past to a lot of common land being lost. It is high time that we addressed that. The land reform review group is looking at a land registry for the whole of Scotland, which will take some time to set up, but we should look first at common land, and it should perhaps be registered first.

Stuart McMillan: Another question about the bill concerns the right to buy, which also touches on the issue of allotments. Should there be a closer tie between the right to buy and allotments? Should there be a preferential system to benefit a group in the community that wants to take on a piece of land to establish allotments?

The Convener: I realise, folks, that you are not allotment experts, but do you want to have a bash at that?

David Coulter: Absolutely—I would not mind having a bash at that at all. Public authorities own a lot of open land, predominantly in urban areas, and they face great problems in how the land is maintained. There are usually large tracts of land that require the grass to be cut and no more. It is common sense that, if we want to increase the number of allotments, we should encourage third sector groups. A lot of allotment societies, going back to the 1920s, would have accessed land because they were granted it, so why should they not be able to exercise a community right to buy?

I can think of tracts of land not too far from here where public authorities have significant problems with upkeep. Why should those tracts not be turned into allotments and used for a much greater community benefit in growing food? There are other agendas in Scotland in that respect, and we need to join them up.

The Convener: Do you want to have a crack at that, Mr Brown?

Andy Brown: Our association’s model is based on leasing rather than buying, so we would not look for a right to buy. From our perspective, if forest land is already owned by the state, we do not necessarily see an advantage in the ownership as such being passed to our association. We can offer rental income and get the land managed, so we would not necessarily pursue the right to buy.

The Convener: Mr Coulter, you mentioned definitions in your previous answer. What do the witnesses think of the definitions of organisations that can become community participation and community transfer bodies? Are they appropriate?

David Coulter: Without going into a lot of detail, I think that you have more work to do in that area. I refer you to Voluntary Action Scotland’s previous response on that issue, from which I would not dissent.

The Convener: So we need to go back and look at Martin Docherty’s evidence again.

David Coulter: I have it here, but you do not want me to start repeating it, given that it has already been submitted.

The Convener: No.

David Coulter: I simply say that the issues that it raises in addressing that question are the same ones that I would raise.

The Convener: Grand—that is very useful. Ms Macaulay, do you have a view on the issue?

Amanda Macaulay: Not really—I do not quite understand the question, to be honest, so I will not answer.

The Convener: Mr Brown, do you have anything to add?

Andy Brown: As I said earlier, the definition is one of the key things that I wanted to talk about today. We believe that industrial and provident societies should be treated similarly to other bodies across the piece, because we can deliver the same advantages and the same community opportunities as other bodies.

The Convener: I thank you for your evidence today. I hope that the experience was not too painful—I am sure that it was not. I will suspend the meeting for five minutes for a change of witnesses.

15:26

Meeting suspended.

15:31

On resuming—

The Convener: Apparently some folk in the public gallery are having difficulty in hearing us, so I ask members to go nearer the mics. Can people hear me okay? Yes—thank you.

Dr Elaine Murray, the MSP for Dumfriesshire, has joined us in the public gallery. After the meeting, if anyone wants to relay anything else to us about the bill, they can do so through her office. I am sure that she will be glad to hear from you.

I welcome the second panel of witnesses: Jeff Ace, chief executive of NHS Dumfries and Galloway; Geraldine McCann, head of administration and legal services at South Lanarkshire Council; Douglas Scott, senior policy adviser at Scottish Borders Council; Kay Gilmour, head of community support in the department of education at East Ayrshire Council; and Louise Matheson, senior manager in property and architectural services at Dumfries and Galloway Council. Would anyone like to make an opening statement?

Douglas Scott (Scottish Borders Council): Yes. Thank you for inviting me along today. Scottish Borders Council welcomes the thrust of the Community Empowerment (Scotland) Bill and its various intentions to engage and empower

communities, make the most of communities' talents and look at how that can support service delivery.

Working with communities is crucial. In a rural area such as the Scottish Borders, we are fortunate to still have strong communities not only in our towns but in our villages and more rural areas. That is a huge opportunity and potential for us.

We have many examples in the Scottish Borders of excellent community engagement and community development work, which involves having strong economic, social and environmental outputs across the range of services concerning older people, welfare reform, transport, children and young people, community safety, culture and sport, economic development and regeneration, and community resilience. That work has a particular focus on supporting disadvantaged communities and groups.

The council submitted a detailed response when the Scottish Government had its main consultation on community empowerment.

The Convener: Does anyone else want to make an opening statement?

Louise Matheson (Dumfries and Galloway Council): Yes, thank you. Dumfries and Galloway Council very much welcomes the bill.

We have a reasonable track record on empowering communities to take over assets. There are a number of good examples of that—the committee heard about one this morning when it heard about the Usual Place. Just in the past month, the council has in preparing its new commitments and priorities explicitly recognised the need to be an inclusive council and has made a commitment to empowering our communities to make the most of their assets. As I said, we welcome the bill, and we thank the committee for the opportunity to give evidence.

The Convener: You mentioned the Usual Place. The committee that runs the project gave us a good presentation this morning about its endeavours. It has had difficulties with lease arrangements, which is not unusual, as we have found that in other places, too. How can such difficulties be overcome? Will the bill when enacted bring about a change in practice to ensure that some difficulties are ironed out long before crisis point is reached?

Louise Matheson: To take your second question first, I am not convinced that the bill will in itself change that. The critical thing is the guidance and so forth that will underpin the bill—it needs to be simplified and streamlined and it should endeavour to make it straightforward for

communities to take ownership of or manage their assets.

As for your point about the complexity of finalising leases, we are constantly learning on that issue. Obviously, each lease has different circumstances, which depend on the asset. As was discussed earlier, a number of parties at the council are involved. Usually, there are colleagues from the estate section and from the legal section. Often, the pressures on them and their priorities dictate how quickly something is addressed, despite their best intentions to resolve things as quickly as possible. As I said, the issue also depends on the specific asset.

There was a discussion with the previous panel about an asset register. Although it was not the case with the premises for the Usual Place, quite a number of title checks sometimes have to be done to be clear about the delineation of the asset or the property's exact boundary. Each case is a learning experience. I was not directly involved in the lease for the Usual Place's premises, but I am certainly happy to give more written information on that, if it would help the committee.

The Convener: That would be extremely useful.

My next question is for all the panel members. In current practice, are local authorities and other public bodies a little risk averse in dealing with some of these issues?

Louise Matheson: There are always concerns about the various practicalities that might arise in taking on an asset, especially if it is an existing building that involves a number of practical considerations. When a community group or body seeks to take on an asset, it needs to do so on the basis of a business plan for using the asset. However, the council or organisation that has to assess that will not necessarily be well versed in what the community group might need to do. There are practicalities, such as how the group will manage the building and take on the premises, what it will do in relation to building safety and maintenance and what capital work might be done at the outset.

Understanding all that can be complex. Some things are very set, regardless of the specific asset involved, while other things depend on specific circumstances, and there is probably quite a bit of work to do to make things more straightforward for communities and council officers in dealing with practicalities. Dumfries and Galloway Council has a disposal policy, which will need to be revisited in light of the bill, as well as a community asset transfer process, which was set up earlier this year to make it easier and more straightforward for communities to take on their assets, come up with practical proposals and make clear how they will look after assets.

Especially when there is not just a desire but a definite need on the part of public bodies and local authorities to make savings, many organisations—including Dumfries and Galloway Council, which owns numerous properties and assets—are under pressure to make better use of their assets, to rationalise and potentially to release assets for sale. The council has had to do just that over the past number of years, and with certain properties that it has marketed people have, as Mr Coulter mentioned, had a desire to save the building instead of having a use for the building in mind. Often the starting point is people saying, "We want to keep that building," and a piece of work needs to be carried out to come up with a use for it.

The Convener: We might come back to that policy in a little while. Does Mr Ace think that we are risk averse in our current practice?

Jeff Ace (NHS Dumfries and Galloway): Yes. We need to give a bit more thought to what that means. In accepting the need not to be risk averse, we also have to accept the potential for and the consequences of failure and to be comfortable with dealing with them. A risk-taking organisation will not call it correctly every time; if it did, no risk would be involved. We still have some way to go if we are to be tolerant of the consequences of taking an ill-judged risk.

The Convener: Are the audit bodies tolerant of that?

Jeff Ace: Their mechanisms for assessing us are clear, well defined and easy to understand. Throughout my career, external auditors have stated that in order to be a more dynamic organisation we have to take more risks, but I have seen less tolerance of failure that results from ill-judged risks. That is why public bodies edge towards a rather staid and conservative approach to risk taking.

Geraldine McCann (South Lanarkshire Council): I agree, although I would describe the approach to risk taking as cautious. After all, we have a duty to follow the public pound, a duty to achieve best value in the use of our resources and a duty to our community. It would be wrong to allow an asset to be transferred if by doing so we were setting someone up to fail.

It is important to work with the community body to ensure that a proposal is viable and sustainable and that the people involved have a hope of achieving it, and that is what South Lanarkshire Council is attempting to do in the community asset transfer process that it has put in place. The bill's design will assist that process by enhancing it, and that will help us to achieve our aim.

15:45

My concern relates to timescales. From my experience, when a community body first approaches the council, it does not have a business plan; it has an idea. It needs assistance to pull together the business plan. It needs to talk to the appropriate people to get guidance on how to develop a business plan, how to engage the rest of its community—it might have spoken only to a small proportion of its community—and how to access funding. It then needs to come back to the council with a viable proposal that allows us to take the request to a committee for a decision.

It can take anything up to six months before we get to the committee stage. Afterwards, there will be people who are unhappy because the request was not granted, but that might be because, after the due diligence was done on the proposals, the council was not satisfied that the business plan was robust enough to deliver the asset and make it workable for the community.

Kay Gilmour (East Ayrshire Council): I would describe the approach as having the right checks and balances in place. Some time ago, we recognised that we faced many challenges in relation to the number of properties that we had. One of our workstreams in what we called our transformation strategy was linked to our properties and facilities, and we established a dedicated community asset transfer team. It comprises a surveyor, a lawyer, somebody from our property services and, importantly, two community workers. For us, that has been critical to building capacity in our communities and finding what I describe as community solutions to something that was undoubtedly a challenge to us in the local authority.

We are now experienced in our process, which probably takes six months from an expression of interest to a stage 2 application coming in from the community group. That is very much about ensuring that the group's business plan is sustainable and founded on strong business principles and that the asset will be used and retained for the community. Thereafter, it probably takes about six months to get to our committee decision-making process.

Douglas Scott: Scottish Borders Council is committed to the transfer of assets. It feeds into our outcomes, as I said. It also links into the pressures that we face on council budgets and the need to consider how we support services in that context.

We have an asset transfer policy. In transferring assets, we must be mindful of best value and there is a major responsibility on us from the public and communities to do that correctly.

We work with a range of community bodies on a range of asset transfers. It is important to be cautious, because taking over an asset puts a big responsibility on a community, as we look for the community to be sustainable and to get a sustainable asset and revenue stream. Business plans are therefore important, as are the robustness and sustainability of the community group and how it goes about its organisational work.

All those matters need to be considered before an asset is transferred. It is also necessary to build in conditions with regard to the asset to ensure that the community does not take on too much. That safeguards the community as well as the local authority.

The Convener: I have a couple of quick questions and would like brief answers, if possible.

Ms Gilmour mentioned the community asset transfer team in East Ayrshire Council. Do the other councils have similar transfer teams?

Ms McCann and Ms Gilmour indicated timelines from the beginning of a transfer request to committee stage. Do the other councils and NHS Dumfries and Galloway have timelines in that regard?

Douglas Scott: I will have to come back to you with information on timelines.

Scottish Borders Council has an asset transfer group that is led by our property manager, who is supported by a person who looks after external funding. It provides strong advice to communities. We are working very closely with communities.

The Convener: Are community workers involved in that, as they are in East Ayrshire?

Douglas Scott: We have community work involvement in that group.

Louise Matheson: Dumfries and Galloway Council has a process that allows a maximum period of 18 months for the community group to bring forward its proposals and for the transfer to happen. That is divided into two clear stages: stage 1 is the application, which involves discussion between the council and the relevant group, and the second stage involves detailed assessment so that the proposal can be taken to committee with a recommendation. The council has no dedicated team, as such. Officers in different departments work collectively, as required. There is an initial point of contact in the community officer and the council's community and customer services department. There is a very proactive process to engage with communities for them to take on particular assets, or to set up service level agreements if they are not taking on the asset fully but are maximising their management of it.

Jeff Ace: NHS Dumfries and Galloway has no dedicated team. It is interesting that at the same time as the bill is progressing, we are going through the process of health and social care integration. In Dumfries and Galloway that will mean the creation, between us and the council, of four joint localities with one manager. We will need to look at whether in each of those localities we have a pathway to enable such requests to be dealt with effectively. Clearly, the bulk of our community assets, from a health point of view, will rest in those localities and will be under the stewardship of the integrated joint board, rather than the health board.

The Convener: Does South Lanarkshire Council have a team?

Geraldine McCann: We do not have a team, as such, but our property manager in housing and technical resources is heavily involved, as are our planning and regeneration teams. There has been a great deal of involvement within the council over the past three years and a number of assets have been transferred successfully to community groups.

The Convener: Ms Gilmour has already given an answer, but is there anything else that you wish to add?

Kay Gilmour: Through our transformation fund we established resources that are available for community groups to bring buildings up to an appropriate standard. We recognised that some buildings needed work on their physical infrastructure and we wanted to support organisations before transferring anything to a lease, so we established a dedicated fund to allow us to do that. That has been helpful to, and supportive of, the overall process.

The Convener: Ms Matheson mentioned 18 months. My understanding is that the Usual Place had a draft lease in April 2013, but still has no lease. I know that it is probably not possible for you to say today why that is the case, but the committee would be extremely grateful if we could have the reason why that lease has taken so long and has fallen outwith your timelines. If you could get that in writing to the clerks, it would be extremely useful.

Louise Matheson: Yes.

John Wilson: Good afternoon. Following Ms McCann's response to the convener, I ask how many community asset transfers have been requested to date in South Lanarkshire Council and how many have been granted.

Geraldine McCann: I do not have the figures with me today, but I will be happy to supply them in writing, once I return to the office.

The Convener: That would be very useful.

Folk do not need to touch the microphones; they come on and off themselves. It is hard to get used to, particularly when you are used to council chambers, where you are constantly pressing buttons.

John Wilson: I would like answers from the rest of the panel.

Jeff Ace: I am not aware of any requests to the health board, but I will check formally and let the clerks know.

Kay Gilmour: If we, too, could get back to you on that, that would be helpful.

The Convener: That would be grand.

Louise Matheson: We will need to get back to you on the number of requests that have been made.

Douglas Scott: I will do that, too.

John Wilson: I look forward to the responses. Do you have an asset transfer policy in place and what is your appeals process when an asset transfer has been refused?

The Convener: Does anybody want to have a crack at that? Have you had any cases in which there have been refusals? If we could get responses about that in the same letter, that would be useful.

John Wilson: This is my final question. I hope that I can get an answer to it. What is your authorities' current thinking on the demand that might be generated by the legislation?

Jeff Ace: That is a very difficult question. The big change that is going on in parallel for us at the moment is the integration of health and social care. If we can get that right, one of the offshoots should be a greater localisation of decision making back into our former natural localities in the region.

That should generate a debate about the nature of health and social care at a very local level that perhaps we have been struggling to get going so far. You could take an optimistic view that that greater engagement—if we can pull that off—and that greater empowerment of real, very local and very community-based decision making could generate a substantial amount of requests in both those fields.

At the moment, I am not aware of a single request, so we will be going from a very low base to—I hope—a much higher one.

Geraldine McCann: I anticipate a much higher level of requests from the community, based on communication about the bill and anticipation and awareness raising within the community. Many organisations are ready for greater participation in their communities because they know that

councils and other public sector bodies' resources are stretched, and feel that they could add something to their communities and deliver on behalf of them. I expect an increased number of requests to come to South Lanarkshire Council.

Kay Gilmour: Originally, I was a bit reticent about giving a number in response to Mr Wilson's question because I can give you the number of initial expressions of interest that we have had—133 in the past nine to 12 months—but I cannot give you the rest of the figures. That gives you some context with regard to what increase we might anticipate from the legislation.

We also have locality planning in our area, and we have established nine community-led action plans, which have been genuinely led by the local community. We intend to roll that out to all communities in East Ayrshire. Perhaps with that, coupled with the implementation of the legislation, we may start to see more requests coming through, but for us just now, 133 is quite a significant number. I cannot tell you what will be the knock-on impact.

Louise Matheson: At the moment, it is difficult to judge properly, but because of the amount of engagement that we have had with communities in this regard, it is hard to believe that there will be a hugely greater volume of requests than we have at present. The vast majority of requests tend to be in relation to community halls, community centres and so on. There could be more expressions of interest in other types of council buildings, but it is a difficult one to call.

Douglas Scott: We are seeing a change with the community empowerment bill and other things that are happening; we are seeing from communities increased interest in and demand for asset transfer. The big issue, thinking ahead, is how we can get specialist support into community groups: helping disadvantaged groups, for example, so that they are able to take over assets, which can be quite intensive work. Even groups with high capacity need specialist support to take forward aspects of community transfer and to think through their sustainability in the longer term. A big investment is required in that, because there are gaps even in councils and the voluntary sector.

People also look to business gateway to get support. We have to look at how public bodies and local authorities can get organised, and at how we give communities good support to move forward.

16:00

John Wilson: I am grateful for Ms Gilmour's figure of 133 expressions of interest. Has East Ayrshire Council done any analysis of the nature of the asset transfer requests? Ms Matheson said

that the biggest demand for community asset transfers in Dumfries and Galloway related to community halls and village halls. Is the picture in East Ayrshire similar?

Kay Gilmour: Yes. We also include football pavilions in the figure that I gave. However, interest is mainly in community halls and facilities.

John Wilson: Thank you very much.

Mark McDonald: In various evidence sessions we have touched on the difference between communities that have capacity and those that do not. Kay Gilmour talked about the council assessing business plans that are submitted. Some communities will have the expertise to take from the idea stage to the stage of presenting a business plan to a local authority a proposal to take on the running of an asset, be that owning it or leasing it, but many do not have that capacity. Do you see a role for your public body in giving those communities the required assistance to get them to that stage? I get the impression that many councils see offering that support as a conflict of interests, rather than as being in the mutual interest of the council and the community.

Kay Gilmour: We have two community workers on our dedicated team to support organisations in building their confidence and capacity. We also work closely with the Development Trusts Association Scotland, which has done quite a lot of work in East Ayrshire in supporting organisations, and which is absolutely expert in that. We also work with the third sector interface. We have lawyers and quantity surveyors on our dedicated team in order that we can offer their professional advice without compromising our overall legal services department. We are taking quite a holistic approach with community groups in order to enable them to get to the stage at which they can submit plans.

Although to date our experience is that it has taken six months to get from expression of interest to committee, it took longer than that when we supported a group in carrying out feasibility studies on facilities that it is interested in taking on. That was not about us; it was very much about enabling that organisation to carry out feasibility studies on the facilities in question. Six months is the average, but the process can take longer.

Geraldine McCann: It is not for the council to develop the capacity, but to give advice, assistance and pointers as to where to get advice from; there could be a conflict of interests if the council was to deliver some advice. Perhaps I am being risk averse, but if an organisation's bid was unsuccessful, having acted wholly on the council's advice, I could see there being a challenge to the council.

However, we have packs that give organisations guidance on the sorts of things that they should include in their business plans, and directions to where support can be found.

The Convener: When you said “packs”, was that an acronym?

Geraldine McCann: I was talking about our guidance pack on community transfer, which has been prepared through our community planning team, with our estates advisers. It gives pointers and direction, but we do not assist people in preparing plans.

Jeff Ace: Mark McDonald asked a key question. If we look at the issue strategically, we can see that the future of viable health and social care depends on community capacity and communities’ ability to work with us to solve their problems. If we are identifying communities that do not have that capacity, that is not neutral—it is a real problem for us, because such communities will not have the resilience that is required in the context of the big changes in health and social care that will come over the next decade or so.

We simply have to enable and support such communities. Who is best placed to do that is a tricky question; I take you back to David Coulter’s evidence about the role of organisations such as Dumfries third sector interface, which might be more appropriate than organisations such as mine, in that we will almost certainly get it wrong, because we are coming at it from a top-down perspective, which is the wrong perspective. We need to engage with partnerships such as David Coulter’s, which can tell us how to help communities.

My organisation can offer good public health support; our workers can put things in terms of building healthy communities. However, we are not skilled in developing the sort of capacity that Mark McDonald talked about, and we need help from organisations such as David Coulter’s and the Scottish Health Council, so that we form a coalition of support to work with the community. As I said, not supporting communities is not a neutral option; there is a real risk to us.

Douglas Scott: The reality is that the groups that are looking to transfer assets such as village halls and community facilities often represent the wider community and have the support of elected members. We are all in it together, and it is in our best interests to ensure that business plans are as strong as possible. As I said, we do not want the asset back—the high street building or whatever. We want to ensure that communities can sustain the facilities that they take on into the future.

That is why it is important that we are all in this together. The council has people, of course, as does the voluntary sector, and we must look at

how we share work so that we get the greatest benefit. There is a gap in specialist support, and we must strengthen specialist support on various aspects of taking on an asset and making it work in the long term.

Louise Matheson: We provide guidance and support to groups that are interested in taking on assets, and we direct people to the likes of DTA Scotland for more specific advice.

It is not appropriate for the local authority to do everything, for a number of reasons—conflicts of interests being one of them. I argue that it is crucial that there is a central point for guidance and support, rather than having each public body or local authority provide support. The issues are similar up and down the land, regardless of the public body or local authority in question. For instance, in every case in which a building is transferred, the body that takes it on must consider the safety issues that it will have to manage. It would be better if there were a central place to which people could go—that includes the likes of DTA Scotland. That would also provide the opportunity for those bodies to network and to learn from one another’s experience.

Mark McDonald: If a community organisation wants to take on an asset, how easy is it for it to know who to go to?

Jeff Ace: We have not publicised information on how an organisation would go about that—we would work closely with the council to use its greater expertise—so we have a way to go to publicise the bill’s implications for health services.

Geraldine McCann: We have a section on the council website that directs individuals who are interested in community asset transfer to the appropriate people. The main source of contact in the first instance tends to be the council’s property services team. It then calls in other professionals as required to give advice.

Kay Gilmour: We also have information on a dedicated part of our website. We try to identify a named person for each of our communities. That has been important for us not just in relation to community asset transfer, but in relation to some of our other work in communities.

We have issued two newsletters, which have gone out to as many groups as possible, including community councils.

Louise Matheson: Because we have actively gone out to speak to communities over the past couple of years to see whether there is an interest in taking on particular assets, it is currently straightforward for people to identify who to speak to. Whether that would be the case ordinarily, I could not say.

There are also opportunities when there are surplus properties. People can approach the estates team if they have an interest in a property. At that point, if the community group is interested, the property will be taken off or not put on the market until the group has had an opportunity to go through the process.

Douglas Scott: We also have a clearly defined asset transfer process that people are directed to, so that matters can progress.

Mark McDonald: I have one last question on an issue that came up during our earlier round-table discussion. Is it fair to say that community asset transfers can sometimes be stifled by a lack of appreciation of what best value means? Best value is often viewed through a monetary prism, so it is about getting the best monetary value and not necessarily the best community value for the asset.

Douglas Scott: A number of factors must be taken into account with asset transfer. A local authority has responsibility to ensure that the process is, as I have said, viable and sustainable. It must also consider where a community body is coming from. For example, where we are looking to develop assets—that could be a health facility, a school or a public building—and a group is looking to delay that development for other reasons, we must consider its views and take those into account. Therefore, the local authority needs to consider the wider issues.

Another example is the potential capital receipts for selling a site viable for a commercial development. We must think about those wider aspects when we are considering whether to accept a community asset transfer request.

The Convener: I will add to Mark McDonald's question. Mark asked about monetary value. With all due respect, we probably did not get the whole answer there, Mr Scott. There is the power of wellbeing. How often has your local authority used the power to advance wellbeing and perhaps put to one side the monetary aspects when it comes to community asset transfers?

Douglas Scott: I think that, as an example of the broader expression of that power, the support that we are giving to a lot of these communities for asset transfers is all about wellbeing. We are also providing facilities on long-term leases and at what is sometimes quite a low rental. All of that is being factored into our asset transfer process. My point is that local authorities have to take a wider view of asset transfers.

The Convener: So no asset transfer has taken place in the Scottish Borders on the recommendation to councillors that it should happen under the power to advance wellbeing.

Douglas Scott: I would have to check and come back to you on that.

16:15

Louise Matheson: I know of such instances. I cannot give you the exact number off the top of my head but, if it helps the committee, I can come back with more examples in writing.

I am not sure, convener, whether the initial question referred to a lack of appreciation by public organisations, the communities they might engage with or both.

Mark McDonald: It is all about how public organisations perceive best value, and it is fair to say that the landscape in that respect is very mixed. The committee always hears evidence that best value is perfectly understood but, when I have dealt with these things, best value has been viewed purely through the monetary prism, not necessarily through the prism of the wider community benefits that are supposed to be attached to it.

Louise Matheson: Our council very much recognises the need to take that into account in considering best value; indeed, we have a number of examples of recent transfers that have happened for those very reasons and which have taken place for a nominal sum as a lease or an outright purchase. In such cases, the council will be presented with the considerations in relation to the overall picture instead of just the monetary aspects. That said, I certainly know of a property for which there were competing offers, one of which was less than best consideration and the other much closer to the market value; both cases were presented to the council to consider which of them to accept.

The Convener: And which one did it accept?

Louise Matheson: It accepted the higher offer, but it agreed to support the party that made the other offer—in that case, it was a charitable organisation—in finding a suitable alternative property.

Kay Gilmour: Taking the second question first, I am not aware of any cases in which we have sought authorisation through committees specifically in relation to the power of wellbeing. I should point out that, in all of our committee papers, we always give consideration to community planning implications, although I recognise that that is not the same thing.

As for the question of best value, we are working with two communities just now on three or four community buildings, none of which is very well used. We have had detailed discussions with those communities and have said that, if we close the other two or three buildings, we will invest in

the one remaining building that the community, which has said that it wants ownership, can take on. That approach has been very successful for us, and it shows that we genuinely try to take a whole-community perspective on what is needed in a particular community. It would have cost between £300,000 and £500,000 to bring one of those buildings up to scratch and put it at the heart of the community. Although we might not have taken that proposal to the committee under the specific power to advance community wellbeing, I think that it is nevertheless an example of where we have worked with the community, looked at its wellbeing and come up with a community solution.

Geraldine McCann: In community transfer applications, we always not only assess best value in monetary terms but assess the community value and benefit that might be achieved by transferring the asset to a particular community group. There have been occasions on which an asset has been transferred or leased at low value because the impact in terms of community benefit was believed to be greater. In the past 18 months, we have used the power to advance wellbeing to aid a charity that wished to improve a facility. The charity was already using it but wished to take ownership. However, although it wanted to invest in the facility for the benefit of the community, it could not afford to pay the market value for the land and the building.

The application was assessed fully, and the council decided that the proposed ownership would benefit the wider South Lanarkshire area rather than just the locality in which the facility was situated. The council accepted that there was a lack of provision elsewhere of the type of facility that the charity offered, and that overall it was better for the benefit of the wider community to use the power to advance wellbeing to give the charity the asset.

Jeff Ace: There is a slight peculiarity with regard to health assets. When we declare an asset as surplus to requirements, we need to inform the Scottish Government that the receipt is likely to come into the pot. The receipt itself will then be used to add to the overall capital that is available to the Scottish national health service. There is therefore a macro complication in that respect. If we were to forgo a capital receipt, that money would not flow back to the Scottish Government and would not be available for projects elsewhere or locally.

Having said that, we are under the same best value obligations as our local government colleagues. We attempt to look at the wider implications of our decisions on assets, and we are audited accordingly on those best value principles.

Cameron Buchanan: We heard today, and we have heard from other councillors, that there should be a regular opportunity for the public to address their councillors in public en masse. Do you agree with that?

The Convener: That is slightly outwith the scope of the bill—

Cameron Buchanan: It is, but it was mentioned earlier today.

The Convener: Okay—fair play. Mr Scott can go first. It is a difficult question for an officer to answer, I have to say.

Douglas Scott: We have area forums in which there are open questions from the public and communities. There are five forums across the Scottish Borders in which councillors and community planning partners are involved, and they meet regularly.

Louise Matheson: We do not have such an opportunity as set up in the exact manner that has been described, to the best of my knowledge. We have area committees and so on, which the public can attend, but they are not set up in the way that the question suggests.

Kay Gilmour: We do not have such things as set up in the way that the question suggests.

Geraldine McCann: We are the same as the other councils. We have area forums, citizens panels and tenants panels, all of which councillors attend. There are always public meetings on large issues, and planning issues in particular, which council officers and councillors within and outwith the planning process will attend.

Cameron Buchanan: The real question was about whether you can get all the councillors together so that issues can be discussed, even at the end of a council meeting. Does Mr Ace want to say anything?

The Convener: As Mr Ace is from the NHS, I do not think that he can say very much about councils.

Jeff Ace: I will tread carefully. We need to push the issue from a Dumfries and Galloway point of view. We have an area of 2,500 square miles, so for us the area committee structure, in which we have four locality meetings, works pretty well. I am frequently invited to attend those meetings, and they are very well attended by elected members. There is a full and frank exchange with members of the local public at those meetings. For a dispersed rural population, our model is probably more appropriate than the combined model that has been suggested.

Stuart McMillan: Good afternoon. The bill requires public bodies to consider how requests are

“likely to promote or improve—

- (i) economic development,
- (ii) regeneration,
- (iii) public health,
- (iv) social wellbeing, or
- (v) environmental wellbeing”

However, it does not say how those decisions should be prioritised or balanced. How would your individual organisations approach that aspect?

Jeff Ace: We have a performance committee governance structure that is well used to looking at multifaceted business cases and assessing, on the balance of the risks and opportunities that are presented, what is the best way forward, so I do not see the bill presenting a particular challenge in that regard. The public health benefits would be easily assessed by us; equally, we are very experienced at working with community planning partners on the wider assessment. I do not think that we would have a particular problem in engaging in case evaluation through our existing governance structures.

Geraldine McCann: Likewise, I do not foresee any difficulty with that. Our current structure is such that an options appraisal and an analysis of risk are included in every paper that goes to committee.

The Convener: Does anyone have a different view? No one does.

Stuart McMillan: The Development Trusts Association Scotland has suggested that there should be negotiated settlements—in other words, that any conditions that are attached should be negotiated with the community group. Do the witnesses support that proposal?

Douglas Scott: I would have to come back to you on that. I need to consider the suggestion more.

Louise Matheson: If one side is not happy with the conditions that are attached, it will not be possible to proceed. Therefore, if the community says that it cannot accept a condition, that must be discussed, and some other alternative should be agreed if possible.

Kay Gilmour: I am probably in the same position of not having the necessary technical detail on leases to answer the question. We have established a model lease. One would expect some negotiation to take place if there were issues with that, but I do not have a technical background, so I do not feel able to give a full answer.

Geraldine McCann: I would expect a period of negotiation before the decision stage was

reached, so that both parties were comfortable with any conditions that were to be attached.

Jeff Ace: I agree entirely with that point.

Stuart McMillan: How many allotments are there in each of your local authority areas? I will ask Mr Ace a separate question in a moment, so he is not getting off lightly.

The Convener: If I allow you to ask it.

Are there any allotment experts who can answer Mr McMillan’s question? Ms Matheson looks keen to answer.

Louise Matheson: I am not an allotment expert, but I can tell you that Dumfries and Galloway Council has 95 allotment plots in the Nithsdale area and 16 in the Annandale and Eskdale area. From the information that I have in front of me, I believe that that is it.

Douglas Scott: I would have to get that information for you.

The Convener: What is your question for Mr Ace, Mr McMillan?

Stuart McMillan: Funnily enough, it is also on allotments. It goes back to something that Mr Ace said about capital receipts. The money would go back to the Scottish Government, but if you had an asset that you no longer required, would it be feasible for you to turn some of the land into allotments, particularly if that would have a mental health and wellbeing benefit?

Jeff Ace: That would certainly be possible, but it would depend on discussions taking place with the Scottish Government’s capital division to ensure that it had not earmarked an anticipated revenue from us. We would have to negotiate with it to allow local flexibility. We have numerous examples of that.

There is not a uniform position whereby, once a property has been disposed of, the money automatically flows to the Scottish Government. We constantly discuss the best use of that with the Government, and the process tends to work well. We have flexibility when it comes to the sort of negotiation that you are talking about.

Stuart McMillan: Do you work in tandem with mental health organisations such as the Scottish Association for Mental Health, whereby services are provided that involve people with mental health issues receiving training in, for example, gardening techniques?

Jeff Ace: We have been involved in a number of community gardening projects. Moreover, as committee members might be aware, we are on the cusp of starting work on a new acute hospital, where we plan to set aside land for gardening and allotments and to work with community groups on

growing food for the hospital. That is a big departure for us and is in Scottish terms quite radical.

16:30

The Convener: I note that we have not really touched on participation requests. What issues are you preparing to deal with as part of such requests?

Jeff Ace: As I have said, we are on the cusp of implementing the health and social care integration proposals and establishing our integrated joint board, which will create an impetus to change service provision at a locality level. I expect that there will be—and we will desperately encourage—community participation in the process with regard to the future shape and sustainability of services, and we would expect and encourage requests for involvement in service change from each of the four localities.

Douglas Scott: There is a range of issues to address. Although the whole process has been logically set out, more thinking needs to be done about the numbers. For example, it is difficult to predict what will come forward in the process; there could be a large number of requests, but we just do not know. The proposal needs to be piloted. The freedom of information process, for example, has grown over time, and we could find quite an increase in numbers as a result of the measure.

We have other concerns. For a start, we will all have to make difficult changes to our budgets as we move through the financial perspective that has been put in place for the next five years. Communities will be concerned about that, and we must ensure that the process contains certain safeguards. I know that the bill contains a provision on repeat requests, but it needs to be a bit stronger and to reflect the fact that, at the end of the day, local authorities as public bodies will have to make certain decisions that affect communities. We will do our best, but the issue needs to be considered.

Not all communities are in the same position on participation. Some communities are strong on it, but others are not, which brings us back to the need for support for capacity building. We are already doing that for disadvantaged groups, but perhaps we need more of that approach to ensure that the process works.

The Convener: So you see budgetary matters as the main issue that will be raised in participation requests.

Douglas Scott: Other matters will be raised, but the budget will certainly be one of them. After all, it will be quite a focus for communities. Perhaps the

approach should be piloted in two or three areas to find out whether it is effective.

The Convener: We have been told that

“Communities can be considered experts in their own needs and by enabling greater input into service planning and delivery, the public sector may uncover innovative delivery mechanisms which more effectively meet their service users’ requirements”,

but you seem to see all this as a threat.

Douglas Scott: No, I do not. I recognise that, as you have just said, ideas could come forward that might result in more savings and efficiencies. I am not disputing the statement; all that I am saying is that we need to consider other aspects of the participation process.

Geraldine McCann: I expect to see more requests and suggestions for innovation as a result of greater involvement in community planning partnerships. I am glad that the role of the partnerships will be enhanced, as that will give them more structure than might have been there before and will open them up to the community.

However, I agree that certain communities will be more able than others to participate, particularly in an area such as South Lanarkshire, where we have a bit of everything. For example, we have a new town, disadvantaged areas and very rural communities. Communities are quite widespread, and the issue is how we reach them all and give them all—not just those in the central belt such as Rutherglen and Hamilton—the opportunity to participate.

Louise Matheson: I agree with Mr Scott. It is difficult to anticipate anything outside of what we have seen over the past few years, but I expect that there will be more requests, perhaps on completely left-of-field issues that might reap benefits in terms of efficiencies and cost savings and which might provide a better overall deal. However, I also agree with Mr Scott that complexities and conflicts might arise in certain circumstances that will need to be worked through, which will take time and resources.

Kay Gilmour: Public bodies need to go on a journey that is all about a culture of improvement. I am by no manner of means saying that that culture is not there at the moment, but this is a journey and some are further along it than others. If we have a culture of improvement, we do not get anxious if communities, individuals in the community or community groups make suggestions about how to innovate or do things differently and better.

In East Ayrshire, we have public-social partnerships in which the third sector and the public sector—it is the public sector, as the health board and the local authority are involved—are

working together on different ways of delivering services. Of course, that raises questions about strategic commissioning and procurement, but our building blocks are the groups that have developed their own community-led action plans. We are already seeing an indication from those groups, some of which are in very deprived areas in East Ayrshire, that their confidence has increased tenfold; they are comfortable with talking with us—on what I should say is a very level playing field now in some of our communities—and challenging us, and we need to be open to that challenge. However, we would be concerned if a bureaucratic process were to be put in place and if we started to receive a number of repeat requests, because that is where things become resource intensive.

The Convener: I thank everyone for their extremely useful evidence.

The next committee meeting will be held at 9.30 am on Wednesday 5 November in the Mary Fairfax Somerville room. I close the formal part of this meeting.

Meeting closed at 16:37.

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