



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 5 March 2014

Session 4

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE

7th Meeting 2014, Session 4

CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

DEPUTY CONVENER

*John Wilson (Central Scotland) (SNP)

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:

Councillor Jonathan Findlay (Glasgow City Council)
Caroline Gardner (Auditor General for Scotland)
Ritchie Johnson (Aberdeenshire Council)
Linda Johnston (North Lanarkshire Council)
Derek Mackay (Minister for Local Government and Planning)
Fraser McKinlay (Audit Scotland)
Pamela Roccio (Edinburgh Partnership)
Douglas Sinclair (Accounts Commission)
Anna Whelan (Orkney Islands Council)

CLERK TO THE COMMITTEE

David Cullum

LOCATION

Committee Room 5

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 5 March 2014

[The Convener *opened the meeting at 09:30*]

Community Empowerment (Scotland) Bill (Draft)

The Convener (Kevin Stewart): Good morning and welcome to the seventh meeting in 2014 of the Local Government and Regeneration Committee. I ask everyone to ensure that they have switched off mobile phones and other electronic equipment.

Item 1 is consideration of the draft community empowerment (Scotland) bill. I welcome our first panel of witnesses: Derek Mackay MSP, who is the Minister for Local Government and Planning; and, from the Scottish Government, Alasdair McKinlay, who is the head of the community planning and empowerment unit; and Jean Waddie, bill manager, community planning and empowerment.

I invite the minister to make some opening remarks.

The Minister for Local Government and Planning (Derek Mackay): I appreciate the committee's interest in the community empowerment (Scotland) bill. There has been a variation in the name since the consultation on the community empowerment and renewal bill, because nobody could pronounce that properly and people wanted to talk about renewables, as opposed to community empowerment.

The bill has evolved from an exploratory consultation, which has moved forward. We have engaged in an extensive consultation, the responses to which are undergoing independent analysis at the moment, and we will publish the results in due course. The process is leading towards the introduction of a bill, which I hope will reach stage 1 in around June of this year.

The driving force behind the bill is the view that we can unlock much of Scotland's potential through community empowerment, and we believe that the various components of the bill can make a difference in doing that. Specifically, the bill will make it easier for communities to take on public sector assets and make better use of them; give communities a right to be listened to when they have proposals to improve services in their area; and improve community planning by putting it on a statutory footing and providing clear duties for all

partners involved, as well as introducing a range of other measures.

The legislative route is just one way of delivering community empowerment. Other strands of work will be undertaken at the same time, such as the reconfiguration of some funding for the third sector and for community groups, and the provision of better guidance on engagement and consultation. That may not require new legislation, but it will certainly help the whole agenda that the committee has been looking at. I have read with great interest the committee's report on regeneration, which focuses on community-led regeneration, and I hope that that will provide further tools to do the job.

The Convener: Thank you, minister.

You said that you cannot legislate for everything; I quite often say that we cannot legislate for common sense. As we have gone round the country recently, we have found some community groups that are enthusiastic about taking on responsibilities for assets, but quite a lot of barriers seem to be put in the way by public bodies. Do you feel that the bill will help those folk who have that enthusiasm to take on such responsibilities and to get things moving?

Derek Mackay: Yes, I do. The experience across the country is far too variable and there could be greater consistency. The draft bill outlines what should happen when there is a request to transfer an asset. We should also create a culture of expectation around community empowerment. Legislation will not fix everything, but it can help with the creation of a culture in which community empowerment is the right thing to do. If a group has a proper, well-informed, outcome-focused business case, the presumption and the balance of power should be in favour of that community group having access to that resource.

Incidentally, that provision does not apply only to empty properties; it could be for underused properties as well. I think that it will set an appropriate culture in place. Much of what the bill proposes already happens—there are examples of good practice in asset transfer—but I am sure that the barriers that the committee has identified will include accountancy rules, bureaucratic barriers or a perception about the third sector's capacity to deliver. There has been a range of barriers and impediments to transfer in the past, and I hope that the bill will help to address that situation, as will any guidance that comes from it and the reconfiguration of finances that I have suggested.

Even with the best council leader in the world, it is normally for the council to determine what assets become available to the community. The bill turns that on its head and asks the community,

“What would you like to have to realise your ambitions for your area?” That is the step change that the bill can deliver. Instead of waiting to be offered something that might be disposed of by the public sector authority, the community will have the right to challenge and to say, “We could do a better job with that asset.” That is extremely powerful.

Anne McTaggart (Glasgow) (Lab): I would like to ask about the consultation period. I am aware that there were two written consultations. To what extent did the Government engage directly with the people and communities?

Derek Mackay: The exploratory consultation was quite extensive, as the bill emanates from a manifesto commitment to conduct a wide-ranging consultation. As the minister at the time, I said that we were taking some risks by posing questions on things that we might not do, but I felt that it was worth probing rather than ruling out options such as legislating for mandatory participatory budgeting, on which legislating did not feel like the right thing to do. That is one of the issues that we explored, and we have taken it through, but I still engage on the very question of participatory budgeting and whether there is more that we can do.

That, in part, answers your question. There has been a formal consultation, an exploratory consultation and a consultation on the contents of the bill and the areas that we are still exploring. As well as conducting those formal parliamentary and Government procedures, I have still been engaging with individual groups. Last Thursday, I met the Moderator of the General Assembly of the Church of Scotland and churches that have engaged with grass-roots recovery and local empowerment, not just around assets, to discuss the chance to thrive project.

Like the bill itself, increasing community empowerment is an on-going process, and it will continue to change even after the bill has been enacted, just as the third sector and communities change and are resilient in their circumstances. That was a pretty long-winded way of saying that there has been extensive consultation, and that it continues.

Anne McTaggart: Could you say more about the reconfiguration of finance streams? When do you intend to divulge that information? As you said, some communities are relaxed about saying what they really want to do, simply because of the current finance arrangements, so is that something that will be in your work plan soon?

Derek Mackay: It absolutely is, and it is something on which I will engage more closely with other ministers, because community

empowerment and regeneration cut across many different ministerial portfolios.

I do not think that someone who is in a community group will be too fussed about which fund money comes from to support their project, but the system should be made simpler and more straightforward and sustainable. For example, there are at least 20 funds for community groups that I am aware of in Government circles, as well as some other partners such as the Big Lottery Fund, and I can see scope for bringing much of that together, not just into one interface but by ensuring that the whole process is simplified, instead of making people jump through many bureaucratic hoops.

Good governance and accountability are required, of course, but I am convinced that we can do much better in streamlining the resources so that we get a bigger bang for our buck and make it easier for existing and emerging community groups to access the immense resources that are already there. We de-ring fenced resources for local government, and we can do something similar around the third sector. I hope that that will mean more longer-term funding, more sustainable funding and simplified funding, which will enable people to put their energy into delivering great projects instead of running a bureaucratic machine to service process.

John Wilson (Central Scotland) (SNP): Good morning, minister.

I wish to make a declaration, convener. As the chair of a community organisation that took over the lease of a local council facility on Monday morning, I am very interested in the issue of community asset transfer. I am concerned about the fact that the draft bill refers to land or parts of land being transferred as community assets. Many community organisations, including the one that I chair, are interested in transferring ownership of buildings that the council owns. Will the draft bill be amended to include property as well as land, or does the definition of land include property?

Derek Mackay: Yes, it does.

John Wilson: It might be worth spelling that out in the bill.

Derek Mackay: We refer to assets as being the structures, the buildings and the property as well as the land—the title—on which they sit. We mean both. I recognise that we will have to make the bill more user friendly. The lawyers can have their fun—they can do their business and the job that we pay them to do, which is to write watertight legislation—but we will also have a guide that the rest of us can understand so that, when we take the bill to communities, they will know what we mean. Through engagement, we have raised expectations around the bill, but it is only when we

understand what the legal terminology means that we can say what is included in the bill. You have given us a good example.

I take the point. Yes, we mean buildings as well as land. We will make that absolutely clear in whatever guidance comes out with the bill—I recognise that there needs to be guidance as well.

John Wilson: I welcome what you say about the definitions, minister. You are right in saying that many communities around Scotland are looking at the bill as a way to enhance themselves to fit all the models that you have outlined of economic development, social development, health and all the rest.

I accept that the Government is keen to issue guidance, but instead of having guidance that can be interpreted in 32 different ways, it would be useful to have clearly stated in the bill what is meant by community asset transfer and what is included in that process—whether it is land, property or other council assets that communities may wish to bid for and take ownership of. There is a danger not just of, as you said, council lawyers or Scottish Government lawyers making a good earning out of the bill, but of other lawyers outwith the public sector making money out of the definitions. It would be useful for everybody concerned, but communities in particular, if the definitions were included in the bill so that there was no dubiety about what is meant by community asset transfer.

Derek Mackay: That is right. Mr Wilson will welcome the reflection that, if the bill is applied equally, it will simply make the inequality worse. We must frame it and give support in such a way that it presents a level playing field. By that, I mean that, if we simply create an agenda that supports asset transfer, communities in some better-off parts of the country might access public facilities within their own geographic patch while those communities with the fewest resources or with the least capacity and expertise to do that will be left behind.

I need to do a range of things to ensure that the bill levels the playing field instead of making the current inequality worse. Ultimately, it is about people's rights. I am not cementing the bill here today, but I do not propose an automatic transfer whereby if someone asks, they get. There must be a more sophisticated process than that. It must be designed to support those who, hitherto, have maybe not had the capacity to transfer assets.

09:45

Guidance is important, but so, too, is power. For the process to work, the bill must swing the pendulum of power from the state to communities. Having an appeals mechanism sends out a

message. If the authority—be it a council or, for that matter, the Scottish Government or one of our agencies—says no to a transfer of property, it should have a good reason for saying no. We also propose an appeals mechanism in relation to the public sector, be it the Scottish Government or a local authority. We do not yet know exactly what that mechanism will look like, but we have posed questions in the consultation to try to probe that.

John Wilson: One of the main concerns is about the value of the asset transfer and the compensation that local authorities may seek. Is there a way in which you intend to put a value against some of the issues that you have identified, such as economic development, regeneration, public health and social and environmental wellbeing? Such a process would enable communities to produce a balance sheet and say, "We are delivering on these issues. We do not expect to pay the market value for a property or a piece of land, because in the longer term we will deliver benefits to the community that are greater than just financial benefit."

Derek Mackay: Yes, of course. When any authority considers an asset transfer, it would consider the benefits and the outcomes that could be achieved by such a transfer. It would be a matter for each authority, but we would not be seeking the property's commercial value. If an asset is underused or not used at all and a community group wants to run it, it would be preposterous to demand on every occasion that its full commercial value be paid. The situation will depend on the merits of the case and the circumstances.

However, we will rewrite the relevant sections of the public sector finance manual to make it consistent and clear across the country that we will be transparent and will be accountable for public assets, but that when such a transfer happens—remember that it will happen for community not-for-profit organisations or social enterprises, whatever they happen to be—full commercial value does not have to be paid. We will make that clear in the accountancy guidance that is provided and in the bill.

The process is genuinely about unlocking the potential of our country through the release of assets and by providing access to assets that fundamentally belong to the taxpayers. They belong not to Government, councils or elected members but to the people, and we are giving the people the power to get some of them back to do great works. We will therefore not tie them up in bureaucratic rules—he says, advisedly, with civil servants sitting beside him. [*Laughter.*]

We have already identified that two things need to change. There must be consistency across the country in the interpretation of the law and in the

application of the public sector finance rules, which we will amend to take account of the bill.

John Wilson: I thank the minister, particularly for the passion with which he has answered the questions.

Mark McDonald (Aberdeen Donside) (SNP): My question probably relates to the point that the minister made about tying us up in bureaucracy. Public liability insurance and other liabilities that can be attached to taking on the operation of a facility or the development of, for example, a community garden, are often raised. I have experience of the issue arising in community groups that I have been involved in, or with which I have had involvement as a local member. Obviously, at present, when an organisation or group leases property from a local authority it can be captured by that local authority's public liability insurance and so it does not have to take out such insurance, which would place a burden on the members of the group. Will the bill clarify the situation when an asset transfer takes place and outline the options or steps that might be available to give comfort to community groups and organisations?

Derek Mackay: I will make two points. First, the asset transfer might be a transfer into a lease; we will not be compelling communities to buy properties. There will be flexibility to allow that, because in some instances, a long-term lease might be better than a purchase. A fairly substantial reference group, which is co-chaired by the Convention of Scottish Local Authorities, helps to lead on the draft bill. Some members of the group have said that in some respects a right to try is better than a right to transfer, so the asset could be leased rather than there being a full asset transfer. The first point to make is that there will be flexibility and there will be options. We are not trying to set centrally how every transfer must be delivered.

The second point is about financial sustainability. Public liability is but one thorny issue with which any community group would have to wrestle in relation to support, capacity, and funding streams. I touched on that earlier to say that we need to streamline funding streams and to do better. Some funds are better than others; it might surprise the committee to know that some funding streams were undercommitted. In this financial climate, that would surprise anyone. Others are oversubscribed. If we get the funding streams right, that will provide more support.

I will give you an update on community transfers and community ownership. We have been able to assist the Development Trusts Association Scotland in expanding the community ownership service because asset transfers continue to happen, and to give front-line, grass-roots support

to those that are transferring right now. As that agenda continues and is—I hope—successful in securing more transfers, there will have to be more provision for supporting groups on issues such as public liability insurance. We are not saying that we are taking ownership of or responsibility for that issue, but I am sure that we can make it somewhat easier if we get the legislation right, if the options are flexible, and if funding capacity and sustainability support are there, as well.

Mark McDonald: That might be a point that I can come back to with our witnesses from the local authorities.

I am not looking for exact figures, but how did the consultation responses from community groups and organisations, social enterprises, and the third sector versus the public bodies that responded measure up?

Derek Mackay: I am delighted to say that there was broad support for the thrust of the bill and most of its provisions. I do not have the detailed breakdown as yet. As you will appreciate, we are still going through the external consultation responses, although I have got some headline messages.

There is no great disagreement about what we are proposing. I suppose that land reform has been slightly controversial, but there is broad agreement and enthusiasm about the direction of travel. Some representatives of the public sector might say, "Slow down a bit. We're already doing great work, so we don't need to go much further, and we're not so sure about an appeals mechanism." Others in the third sector or in voluntary groups might say that we need to be more, not less, radical, and that we need to do more. There is a wide spectrum of opinion, but nobody is really disagreeing with the direction of travel, although they might want to discuss the mechanisms, terminology, definitions and the balance of power.

COSLA and the local authorities were expected to rebel and say no, and the third sector was expected to have ridiculously high expectations; I have found that neither is the case. On the whole, it seems that we have found a happy medium, although I want to ensure that the bill continues to be quite radical, otherwise it will neither empower nor excite and so will fail.

The Convener: The reports that we have seen indicate that an area of controversy might be common good funds. I have been involved in local government for a long time in a city that has a substantial common good account. How will we get over the inevitable controversies in transfers of common good land or property? Have some of the responses thus far on common good been

because public bodies have not maintained adequate asset lists of what they hold as common good?

Derek Mackay: I think that there is a degree of truth in that, convener. Like you, I have experience of common good funds that have been forged in the heat of battle. Sometimes the battle has been political, and sometimes it has been because of how community groups feel about how common good assets have been used.

My home town of Renfrew has a common good fund. The last valuation that I saw was for about £10 million, which is quite substantial for a population of about 22,000 people. My local experience has helped to inform my ministerial experience on common good funds.

Some people within the bureaucratic world would say that we should just do away with common good funds because they are anachronistic; they date from local government reorganisation, and they serve no purpose. I take a different view. Many communities see them as being their inheritance and as something that belongs to them. That is quite right.

That takes me to the convener's point that local authorities have not always kept registers that can be made available and that people would want to see. There are already rules about how to account for common good assets, but they have not always crystallised into an account of what is held by a common good fund, what its purposes are, and how it can be accessed and used.

Through the draft bill we are proposing to create such registers and statutorily to involve community councils. Community councils will be the only statutory bodies that provide coverage across the country—or most of the country—regarding common goods. We propose a credible register, engagement with community councils on the register's composition and on-going engagement with community councils on use and disposal of common good assets. That will be far more healthy, democratic, engaging and community-minded than what some people would have had us do, which was simply to wind up and abolish common good funds and have them subsumed into the council pot.

Common good assets are a tiny fraction of local government finance, but I say again that they are very important to individual communities, which care passionately about their use, their origins and their future.

The Convener: You say common good assets are tiny compared to other local government budgets, but they are substantial in certain places; in Aberdeen, for example, the figure is £78 million. Will the bill lead local authorities to look long and hard at how they deal with common good

registers, which have been neglected for far too long in some parts of the country?

Derek Mackay: Yes, it will. It will be empowering, it will shine a light on common good funds and it will lead to greater transparency. With the culture of expectation about community empowerment, this all bodes well for common good funds.

I will put in context the figure that the convener cited. I recognise that common good assets are massive to local communities. Even in Aberdeen City Council, which is an authority that I am very fond of, common good assets total £78 million. I do not have the figure to hand, so I will take the convener's word for it. Overall, assets in local government are worth about £35 billion. However, to communities their common good assets are absolutely invaluable and phenomenal.

We could all be a bit negative about some past uses of common good funds; for example, paying for councillors' lunches does not seem like the best use of them to me—although that is a personal opinion that is not in the ministerial lines to take.

The Convener: I agree. I am glad that you are fond of Aberdeen—I hope that that was not a slip of the tongue.

Stuart McMillan (West Scotland) (SNP): There is a proposal in the draft bill to extend the community right to buy to include

“urban areas and settlements with a population of 10,000 or more”.

Why did you settle on that 10,000 figure?

Derek Mackay: The good news for me is that my colleague Paul Wheelhouse will be leading on the land reform element of the bill, which will be very empowering and will benefit from the work of the land reform review group. I can give you the direction of travel and the general thrust of that work.

In the past, the legislation was created around rural rights. We are trying to extend land reform and the right to buy to all parts of Scotland—urban and rural—so some of the qualifying criteria must change to take account of that. Parliament arrived at the 10,000 population figure before I was an MSP. What we are doing now is creating consistency across the country. That figure probably reflected the appropriate population of a community at the time.

Stuart McMillan: Has there been any great discussion, or conflict, about the proposal to put community planning partnerships on a statutory basis?

Derek Mackay: Of course. It would not be a community planning partnership if there was not a

great deal of discussion around its purpose and future. We have engaged with the national community planning group, the Convention of Scottish Local Authorities and other partners to get sign-up. Again, there is general agreement.

I have to make sure that every part of the public sector takes community planning seriously. It is the job not just of local authorities or health boards, but of other public sector partners. The sharing of the duty among all public sector partners and putting it on a statutory footing will be really important. Community planning partnerships are already important, but a lot of the mechanics, functions and outcomes are not as we want them to be, so the eventual bill will address that.

Alex Rowley (Cowdenbeath) (Lab): Some time ago Fife Council did a major piece of work on common good; perhaps that is a bit of good practice that we can see. As someone who spends a lot of time on his allotment—

Derek Mackay: The draft bill has got loads for you then, Mr Rowley.

10:00

Alex Rowley: Yes. We are doing stuff on allotments.

However, in terms of community planning and community planning partnerships, budgets are absolutely crucial. What will the proposed bill do in terms of the barriers? I agree that we need to take community planning lower than the strategic level. For example, the seven area committees in Fife are now developing local community plans. However, it is about trying to get the partners to come in, getting transparency around budgets and ensuring that if key outcomes and priorities are identified, the budgets of all organisations, including in the third sector, are focused on them. Will the bill address that?

Derek Mackay: Yes, it will. I think that we are beginning to see real progress now, which has been partly aided by the work of the national community planning group and the Accounts Commission's probing of individual community planning partnerships. I think that that is creating the right expectations. Fife is a good example of what is happening with community planning partnerships. I went to Fife with the then convener of COSLA, Pat Watters, and met Mr Rowley, in his previous capacity, and the rest of the community planning group to assist with the quality assurance programme.

For the first time, every community planning partnership in the country has gone through an appraisal of what they are doing and what development should look like based on the single outcome agreements. There will be more of that.

However, the bill will help those who make close inspections of an organisation's statutory and legislative duties. For example, in the past the police might have focused on crime numbers, the health service might have focused on its HEAT—health improvement, efficiency and governance, access and treatment—targets, and local government might have focused on statutory performance indicators. The bill will mean that there will be shared responsibility to focus on outcomes jointly, rather than their being just for the council. The bill will give a strong statutory footing to that.

I think that some of the other workstreams are already leading to greater joint action. For example, I was encouraged by work that I saw in Glasgow that seemed to be progressing our work around joint resourcing, which has been mentioned. If each part of the public sector plans in isolation what it is going to do, we will not achieve the effective change that we need. We will do that only by pooling resources. That is not a bureaucratic accountancy exercise; it is about mapping out the place-based needs of an area, identifying what needs to be done and getting on with it.

It has been a travesty that the best projects have sometimes happened despite community planning partnerships rather than because of them. However, we hope that if we make the right synergies and connections, that will foster the right joint working. Practice is variable across the country; there are great projects, but we want to upscale and mainstream the good practice. I think that the bill will help to lay the foundations for that in terms of legal expectations and shared responsibility. The on-going work of the national community planning group and the quality assurance programme will help not from when the eventual bill is enacted but from now. I hope that that reassures Mr Rowley.

In terms of actual cash and resources, we need to be a bit more creative. I was impressed by what I heard from Glasgow, where the health board and the council are working together on three strategic themes through the place-based approach. They are mapping out what is required and what the public sector will do with the third sector, and they are getting on with it. They have governance arrangements, but they are less fussed about, for example, commercial value, transfer transactions and all the rest of it. It is not about asking, "Whose asset is it?"; it is more about asking, "What outcome are we trying to achieve?" That kind of work is very reassuring in terms of what Mr Swinney said about joint resourcing and focusing on outcomes.

We are seeing progress on the ground on community planning, which I know the committee

will take a great interest in, having worked so closely on community planning objectives in the past. I believe that the bill will strengthen and embed that.

Alex Rowley: If we accept the principle of decentralisation and decisions being made at the most appropriate level, how do we engage? What will the bill do to engage local communities and give them a greater say and a greater accountability call on the community planning partners?

Derek Mackay: I am convinced that we will be able to produce better results if we create that culture of empowerment locally. That means the third sector's being able to co-produce, collaborate or co-operate—whatever we want to call it—to produce better services. The bill will help with that.

I refer again to the work of the national community planning group. It has commissioned work with the Scottish Government and COSLA to find out what mechanisms are working to design services locally that deliver for the third sector. That work is on-going.

Although the bill will not prescribe what a community planning partnership should do, it will prescribe that everyone should play their part. Therefore, it will allow for a decentralised model with local empowerment, while setting some leadership.

Local may always be best, but we need national standards and consistency on some matters. That takes us back to the very problem with asset transfers. If we let everybody do their own thing, some areas would be left behind; that would not be good enough. Within the parameters of local empowerment, decision making and solutions, we want to meet certain national standards and expectations, hence the proposed bill and the purpose of the Parliament. The bill is about unlocking potential and removing barriers, rather than about being too prescriptive.

Alex Rowley: It is about getting the balance right.

Derek Mackay: Everything is a balance. The most radical people would ask for a guaranteed right of transfer to community organisations, but what if the community organisation could not do as good a job as another organisation? Everything is about balancing and weighing up what is best for outcomes.

The Convener: I was waiting for you both to wax lyrical about the Allotments (Scotland) Act 1892.

Cameron Buchanan (Lothian) (Con): I am a little bit uneasy about the compulsory right to buy for communities and the circumstances in which they can do that. Will you expand on that issue?

That right is to be extended to communities with populations of more than 10,000 people. Can that seemingly arbitrary figure be changed?

Derek Mackay: The work on the compulsory right to buy is taking place at the same time as the Scottish Government is concluding the housing right to buy. Those are two different things: one refers to the right to buy housing; the other refers to the community right to buy with regard to land reform.

We have compulsory purchase orders for where there is a specific purpose and outcome, and there is a legislative process. The right to buy process with regard to land reform comes into play when the land becomes available, when a declaration has been registered and interest has been noted. In the consultation we are exploring whether, subject to all the necessary legal requirements and European Union directives, when we are satisfied that land is abandoned and neglected, there could be an opportunity to compel sale to a community, if that is in the interests of the community.

I understand why Mr Buchanan might be uneasy about that, but it is not a law, a rule or a mechanism that would be used lightly. Therefore, we are exploring the matter very carefully, but it is just not good enough for lands to be left abandoned and neglected while communities have no right to access that land by way of ownership.

On the wider issue of the community right to buy, streamlining the process and extending it to urban areas is less controversial. Compulsion is a bit more controversial; we are exploring the issue and we could be quite radical.

Cameron Buchanan: That is the assurance that I was looking for. For example, the Isle of Eigg was abandoned by its landlords and the community was given help to buy the land, which was a good thing. It was the word “compulsion” that I was a bit anxious about.

Derek Mackay: We must consider compulsion, subject to the other criteria that I have mentioned, because if land can be abandoned it can be neglected and would become available to the community only when it was being sold. The difference with the proposed bill will be that we will not wait forever and a day for the land to be sold before we do something. We are considering whether there can be a mechanism to compel—not willy-nilly; only where there is a case for doing so—that would take account of legal definitions in relation to abandoned and neglected land, and which would be subject to all the other provisions that we are exploring with our solicitors.

Cameron Buchanan: My other question was about the 10,000 population figure. Is it an arbitrary figure? Is it likely to change? Will it

include urban areas and settlements with populations of more than 10,000 and which are currently excluded? I am talking about the right to buy.

10:11

Meeting suspended.

Derek Mackay: Yes. The 10,000 figure refers to the existing legislation. We are proposing to remove that arbitrary figure because we want to extend the right to all parts of Scotland in order to suit individual circumstances. How communities are defined, the size of sales and so on will all be far more flexible than they were.

The Convener: The committee has done a lot of work of late on public service reform and regeneration. How will our work feed into the bill's formulation?

Derek Mackay: The committee's work has assisted. The four pillars of the Christie commission's report around prevention, integration, people and the workforce, and improvement are absolutely what this work is about. The bill is principally about prevention and people. For example, if people have the tools to do the job, they will be able to help to set their own destiny by creating community projects that deliver for them. That is very empowering and very much fits in with the preventative and the people agendas, so the bill will be absolutely in tune with the Christie commission recommendations on empowerment. The bill will also be about decentralisation because it is about taking away bureaucracy in order to support that agenda.

The Convener: Will you take into account the recommendations from our public service reform and regeneration inquiries?

Derek Mackay: Yes. I concur with many of the recommendations. The report suggests that there has been an omission with regard to accountability of community planning partnerships, and that MSPs could be engaged in that regard, but I am not sure that that recommendation went down particularly well with community planning partnerships and other partners. I am just showing off that I have read your report, convener. The accountability of community planning partnerships is an issue. They are accountable to the people and to democratically elected local authorities and health boards, they are subject to governance arrangements and they are inspected by the Accounts Commission and so on, but the committee has a point in that I have not yet completely addressed the need to hold community planning partnerships to account externally. Perhaps that requires further work. Other than that, the rest of what the committee suggested features in, and has assisted in relation to the proposed bill.

The Convener: Thank you very much for your time, minister.

10:14

On resuming—

Work Programme (Auditor General for Scotland and Accounts Commission Briefing)

The Convener: Item 2 is a briefing from the Auditor General for Scotland and the Accounts Commission on their work programme. I welcome Caroline Gardner, the Auditor General for Scotland; Douglas Sinclair, chair of the Accounts Commission; and Fraser McKinlay, controller of audit and director of performance audit and best value at Audit Scotland. Does any of the witnesses want to make some opening remarks?

Douglas Sinclair (Accounts Commission): Thank you, convener. It might be useful to the committee if I spend a few minutes describing the public audit model and how it works. There are three component parts to it and they each have separate roles to play.

The Accounts Commission, as you know, is the public's watchdog for local government. It operates independently of Government and councils and it reports in public.

The Auditor General for Scotland is, in a sense, Parliament's watchdog and audits every part of public expenditure apart from local government and fire and police boards. However, we no longer have fire and police boards. That area is now Caroline Gardner's responsibility.

The third part of the public audit model is Audit Scotland, which was established to provide services to the Accounts Commission and the Auditor General.

It is a complex and unique model. I thought it might be helpful to the committee to explain its component parts.

The Convener: Thank you very much, Mr Sinclair. Do any of the other witnesses want to add anything?

Caroline Gardner (Auditor General for Scotland): The other points will come out in questioning, convener. We are happy to leave it to you.

The Convener: We have just had an evidence-taking session on the draft community empowerment (Scotland) bill. Of late, the committee has had a great interest in community planning partnerships and how they deliver—or not, as the case may be. Recently, the Accounts Commission did three audits of community planning partnerships. How do you intend to follow those up and are there any plans to audit other

community planning partnerships in the near future?

Douglas Sinclair: We are in the process of undertaking work in five other community planning partnerships: Glasgow, Moray, Perth and Kinross, West Lothian and Orkney. The first report, which will be on the Glasgow community planning partnership, should come to the commission in May. When we have completed those five audits, the Accounts Commission and the Auditor General will issue a national overview report on our findings in relation to those five CPPs, as we did for the first three.

Fraser McKinlay (Audit Scotland): Perth and Kinross might be a bit surprised that it is getting a CPP audit. The fifth one is actually the Falkirk partnership. It is probably better just to put that on the record.

Douglas Sinclair is absolutely right. We are in the process of doing those five audits. We undertook an independent evaluation of the first three audits and have learned the lessons for how we go about the audit work. We will publish the reports of the next five through the year.

We are following up the first three audit reports locally. As you know, we have auditors who, every year, audit councils, health boards and other key partners. We are keeping an eye on progress. We have not committed to publishing a follow-up audit report on those CPPs, but if we have any concerns about progress in any of them, we have the option to report. We continue to monitor the situation and will keep a close eye on how they are progressing.

The Convener: Are you geared up for auditing the transfer of assets and other possible changes under the draft community empowerment bill?

Fraser McKinlay: Yes, we are. It is fascinating territory. I do not mean to suggest that it does not have implications and that we will not have to think hard about how we do these things, because we will.

It was welcome to hear the minister emphasise the importance of good governance and accountability in a way that supports what CPPs are trying to do rather than gets in the way of it. We would be supportive of that.

Clearly, there is an interest for audit in all that. People would rightly expect the commission and the Auditor General to have a close handle on what happens to public assets. However, as was made clear in the previous evidence-taking session, if we take asset transfer as an example, our primary interest will be in the quality of the business case that supports the move. It is not for auditors to comment on the rightness or wrongness of it, but we would absolutely expect to

see a strong and robust business case where assets are transferred, particularly where it involves assets being transferred for less than market value. We would want to see a strong and clear case for the wider public value of such a move. As long as that is in place, it will be okay from our point of view.

The Convener: In the past, many of us have seen situations in which asset transfer or lease was mooted and it was suggested to elected members that they should not approve it because audit would come down on them like a ton of bricks. I hope that there will be some flexibility in dealing with asset transfers and a recognition that the lease cost or sale of the asset may not garner a huge amount of money but may save the public quite a lot in future years. Would you like to comment on that?

Caroline Gardner: Perhaps I can reinforce what Fraser McKinlay said. All three of us in the public audit system in Scotland—me, the Accounts Commission and Audit Scotland—are very committed to upholding the importance of good governance, good accountability and transparency but also to ensuring that those things support rather than get in the way of better services and better outcomes for communities throughout Scotland. That is not to say that governance and accountability do not matter; rather, they should support the things that people are trying to achieve. We are keen to ensure that the auditors whom we appoint understand that and do not allow audit to be used as an excuse for the right things not happening in the right way.

The Convener: I did not say that auditors were making the excuses; I said that some council officers were.

Mr McMillan has a wee supplementary question.

Stuart McMillan: Yes. I want to follow on from that point and the minister's comments in the previous session.

On the transfer of assets, the minister stipulated that it is not necessarily the case that an asset could be sold. There could be a better leasing arrangement. If there are to be improved leasing arrangements, will you still play a full role in the auditing of those arrangements, or do you suspect that your roles might be a wee bit different or a bit more withdrawn?

Fraser McKinlay: In a sense, the same answer applies almost regardless of what the model is for the transfer. We would want to ensure that the process and the governance, and how they are set up in the business case, are right, and that the authority, whichever public body has the asset and is transferring it, knows how it will monitor that. For example, in the previous discussion, the issue that the community group or groups taking on the

asset should be equipped to do so came up. There is a big capacity-building agenda as part of the process to ensure that people who take on an asset can run it, whether they own it or it is leased. As you say, our interest will be in the arrangements for that and ensuring that they are all in place as we would expect.

As the bill progresses, we will certainly need to think about how we make clear the Accounts Commission's and the Auditor General's expectations on some of these things. That would certainly help, as we are moving into new territory. We must also recognise that risk is attached to some of this stuff and that, as the Auditor General said, we need to handle that sensitively.

The Convener: I have a general question about reports. The most recent report that I read was the South Ayrshire one.

Douglas Sinclair: That was a best-value report.

The Convener: Yes. How much attention do folk from outwith the bodies that have been audited pay to the reports? Common sense tells me that it would be wise for folks to keep on top of things by looking at what is going on elsewhere, but that often does not seem to be the case, and we see the same things cropping up in reports all the time. Is the circulation of the reports wide enough? Do bodies pay due attention to them?

Douglas Sinclair: I think that the answer to that is yes. In the case of the South Ayrshire report, to which you referred, the commission's findings were strong, and they attracted a lot of local media publicity.

I think that the reports are carefully read by every council in Scotland. Every chief executive and leader looks at the findings, assesses their council against them, and asks whether there are issues in their council that would cause difficulty as a consequence of the commission report. I think that the reports have a considerable impact, that councils are well aware of the powers that are open to the commission, and that we can, if a council is totally dysfunctional—as the convener knows—hold a public hearing. Councils would not welcome that; it is not in their interests. Their interest and the commission's interest is in ensuring that the messages in the commission's findings are taken on board and we can see clear improvement. That is why, in the case of South Ayrshire, we have asked the controller of audit to come back and report to the commission on progress.

The Convener: You say that every chief executive and council leader will read the reports. I am not entirely convinced in the latter case, judging from past conversations. There is a difference between reading reports and comprehending exactly what is being said and

getting the recommendations that are often contained in them. Is there perhaps still a need for better training in order to understand certain aspects of the work that you carry out and, beyond that, the recommendations that you make?

Douglas Sinclair: Could you be more specific?

The Convener: For example, I was able to comprehend from reading the South Ayrshire report where there were difficulties and the recommendations that you made. It might not be the case that every councillor and elected member understands every aspect of what is written in that report. From my perspective, audit is a Cinderella-like area in some regards. There is probably not enough training for elected members in this area. Would you like to comment on that?

Douglas Sinclair: I do not wish to sound defensive, but I am not sure that we could have been any clearer or plainer in our findings. We said that the council lacked a corporate plan. We said that its scrutiny arrangements were inadequate. We said that there was a lack of clarity about the roles of the leader and the chief executive. We said that performance management was inadequate. Those are fundamental building blocks of best value. If people cannot understand, they clearly do need a lot more training.

Fraser McKinlay: The issue is not so much our role as auditors specifically—although that is an important part of the framework—but the continuing need to ensure that councillors understand their role in scrutinising and challenging performance. Our auditors who audit councils are often involved in briefing audit committees on their role, helping them understand the role of external audit as opposed to that of internal audit. All of that work happens locally. If there has been an election and new members are being brought on to committees, we routinely do that as part of a briefing and induction process.

There is always more that we can do. As the Accounts Commission chair said, when we find examples such as that of South Ayrshire, where some of the basic building blocks are not in place, that obviously gives us cause for concern. We are not in a bad shape although, as I say, there is always more that we can do.

John Wilson: This committee's scrutiny does not always involve going into individual reports but, given that we have opened up the South Ayrshire report, I ask for some views on the report that was published in October 2013 on Argyll and Bute Council, in which you refer to the political leadership, the problems in the political structures and the make-up of that authority. In your role as the Audit Commission—

Douglas Sinclair: The Accounts Commission.

John Wilson: Sorry, Mr Sinclair—the Accounts Commission. I am referring to your role in monitoring the political make-up of a local authority and the democratic functions of an elected council. I am talking about how elected members operate, not about the officials of the council. Is it pertinent to criticise the political leadership of a local authority?

Douglas Sinclair: I am not going to talk about specific councils, which is not the role of your committee, as you rightly say. In more general terms, the commission absolutely accepts that political differences are the stuff and life-blood of councils, with different political groups having different views as to priorities.

The issue that we were trying to articulate is that when political differences are of such an extent that the good business of the council cannot be transacted, the public lose confidence in the council and the thing is dominated by extreme political differences, such that the council, even if it does not become dysfunctional, moves towards that, it is appropriate and right for the commission to draw attention to that. As I said, we absolutely accept that there is a right for political groups in councils to disagree, but we have made the point repeatedly—it comes from our work—that even where there are political differences, councils that have a shared vision of where the council should go are better placed to deliver best value and enjoy the confidence of their communities.

10:30

John Wilson: Convener, I want to take this a stage further. Mr McKinlay mentioned briefings and induction training for new elected members. The issue for me is how many new or returning members participate in those briefing and training events. My experience of a particular local authority is that only a fraction of the elected members participate. The local authority that I am referring to runs regular training events, but fewer than 10 per cent of the members turn up to them. How do you square the issue of induction and training to allow elected members to understand their roles and responsibilities, given that members do not bother to turn up? In particular, some of those who have been around for 30 or 40 years say, "We've seen it all and done it all. We don't need somebody to come in and tell us how to do it in the future."

Douglas Sinclair: It would be short sighted to say that, because local government is not a static business. We touched on arm's-length external organisations, which did not exist 20 or 30 years ago. The complexity of local government is increasing all the time, and we encourage and exhort councillors to take up training opportunities.

It is to the loss of any individual councillor if he feels that he knows all the answers, whether he is a new councillor or a long-standing one. People cannot do the job without training, as they need to understand the fundamental parts of their role, which are at the beginning and end of the process. The councillor's role is to set priorities and policies, to allow management to deliver them, and then to hold management to account for their implementation. The role involves the start and the end—the setting of policy and then the scrutiny. That is the fundamental role of councillors. If councillors do not understand that, the council will not operate effectively. In effect, they will make the council's task and operations much more difficult than it needs to be. If councillors are well trained and they and officers understand the role, the council is better placed to achieve best value.

Fraser McKinlay: We have reported on the matter countless times. A key bit of evidence that we look for when we do audit work in councils is the training and development that is offered and—more important, as Mr Wilson says—the extent to which that is taken up. There is definitely a horses-to-water thing in some cases.

Good councils look at the timing of their events and consider whether it is appropriate and will encourage as many councillors as possible to come along and whether they are putting on events that are of particular interest. Anecdotally, from memory, I note that events on things such as how to fill in expenses forms seem to be pretty well attended in councils, but other events are less well attended.

As the chair of the Accounts Commission said, we always ask for information on training and we will continue to push for it to ensure that the leaderships of councils are fulfilling their obligations.

Douglas Sinclair: There is also a point about the complexity of ALEOs. When a councillor is appointed to an ALEO, his responsibility is to the ALEO and not to the council. People need training to understand the complexity of that role, because when the councillor goes back into the council chamber, they are still a member of the council. They have to accept that they are playing different roles in different organisations. It is now a complex world. *[Interruption.]*

The Convener: I suspend the meeting for a few seconds.

10:34

Meeting suspended.

10:34

On resuming—

The Convener: Please ensure that all mobile phones in the room are switched off. Not only is it an annoyance when they go off, but they interfere with the broadcasting equipment.

Mr Sinclair, do you want to continue?

Douglas Sinclair: I think that I made the point, convener.

John Wilson: On the point about membership of ALEOs, elected members are accountable because they are subject to the ethical standards in public life structure. Would an elected member of an authority who was placed on the board of an ALEO be accountable under that structure for decisions or actions that they took in pursuance of their directorship of that ALEO, or would that structure not apply to the individual when they acted as an ALEO board director?

The Convener: I am not sure whether the witnesses can answer that question, which goes a little beyond their sphere, but Mr Sinclair wants to attempt to answer.

Douglas Sinclair: If a company was involved, the individual would have obligations under the Companies Act 2006.

John Wilson: I am testing the position. The issue of decisions that are made goes back to an earlier discussion about ALEOs delivering services with public money, which normally comes from local authorities. Could public money be used in a way that might run contrary to a council's objectives?

Douglas Sinclair: That goes back to the point about the effectiveness of a council's scrutiny of an ALEO. Public money is still involved and a council still has a responsibility to follow the public pound and ensure that the money is properly spent. That touches on how effective a council's arrangements for scrutinising an ALEO are.

It is not new for councillors to have different responsibilities. In the old days, when we had police and fire joint boards, elected members who were appointed to such a board had a duty to that board and not to the council that appointed them. The concept is not new.

John Wilson: Some elected members thought that they were to represent only the views of the authority that appointed them.

Douglas Sinclair: That goes back to training.

The Convener: Of which there is a lack in certain places still.

Alex Rowley: The last overview report that I read suggested that there is a way to go on the effectiveness of community planning partnerships—[*Interruption.*]

The Convener: I have to suspend the meeting because of interference with the broadcasting system. I would like any electronic device that is switched on to be switched off. That applies to people in the public gallery, too—please check your phones.

10:37

Meeting suspended.

10:37

On resuming—

The Convener: I apologise to Mr Rowley for the interruption, but I could hear the interference, which affects the broadcasting system hugely.

Alex Rowley: The overview report on community planning partnerships suggested that there is a way to go. We know that the community empowerment bill, which the minister talked about, is coming. Where is community planning at? What are the outstanding issues?

It was interesting that scrutiny performance was mentioned. Many local authorities have strong and powerful scrutiny committees that do a job of work. They are led by councillors who are not in the administration, to ensure effective scrutiny. That is less applicable to community planning partnerships.

A community planning partnership brings together different bodies, which sign up to a set of strategic objectives and outcomes but see that as something separate when they go back to their organisations. Where are we at with community planning partnerships? What is your take on pooling finances and getting them to follow the agreed priorities?

Caroline Gardner: One of the main findings in the report that was published last March was that, in some places, community planning is starting to make an impact by bringing together the key players to develop the vision of what they want to improve for their area, their community and different parts of communities. We made the clear point that, to make that happen, community planning partnerships need strong leadership locally and nationally. In the parts of Scotland where the system is less well advanced, a lot of what needs improvement is different behaviours.

We have to consider not just the budgets but the resources that people have to bring to bear on the problems. Earlier, the minister talked about participatory budgeting. The new guidance on community planning partnerships that was published last year talks about meaningful pre-consideration, which means bodies sharing information on their budgets before they are agreed. We think that that is important, but there is a step before it that involves each of the partners being clear about the staff, buildings and other assets and services that they have available. Each partner should think about what they can bring to the table, whether they are trying to improve the quality of life for older people or give children the best start in life in the early years.

We need to move on from having a community plan and a single outcome agreement to being clear about who is going to do what, what the expected improvement is and how the partnership will monitor so that, if the intended effect is not produced, things can be changed to make progress. We think that that is most important at that stage.

Alex Rowley: What can we do to try to make that happen? Community planning partnerships have been around for a number of years. At one point, the finance secretary said that, if necessary, he would legislate to make some of those things happen. We know that it should happen, but it is not happening.

Caroline Gardner: We said in our submission to the pre-consultation on the community empowerment bill that we think that the proposals in it should help. However, the Government cannot legislate for people's behaviours or for their willingness to be transparent about the resources that they have. There are questions about governance and accountability of the partnerships that could do with more thought, on issues such as where people will be held to account for doing what they say they will do or for not engaging in the first place.

Another point in that submission was about ensuring that, in the interaction between community planning partnerships and the new health and social care partnerships or partnership working under the Children and Young People (Scotland) Bill, the different strands of policy pull in the same direction to avoid the risk of people signing up to a single outcome agreement or community plan on paper but in practice being pulled in slightly different directions. More can be done through legislation and there are areas for further development in governance and accountability at local and national level.

Douglas Sinclair might want to add to that.

Douglas Sinclair: I echo Caroline Gardner's point about culture. The community planning partnership is a complicated model. The Government has proposed that councillors and non-executive members of the health board will have a scrutiny role, which is the point that Mr Rowley touched on. However, councillors and non-executive health board members do not have the same role. Councillors have much more of an executive role than the non-executive members of a health board have. Similarly, the chief executive of a health board has much more substantial power than the chief executive of a council has. The chief executive of a health board is the accountable officer. We are putting together round a table people who have different roles and expectations. Some of that needs to be worked through so that people reach a basis of trust and a good culture and then move on.

Secondly, we need to be clearer about where community planning partnerships can add the most value. There is a sense that they are the dustbin for everything, but they cannot be, because there are the health and social care partnerships. Community planning partnerships need to focus on where they can add value, and engage in debate on that to bring clarity.

The Convener: The simple question is whether you have detected any change or improvement since the guidance was changed.

Fraser McKinlay: I would say that we have absolutely detected that. As we said in the report that the commission and Auditor General produced last year, there is a recognition that something needs to change. We have the guidance and statement of ambition and subsequent bits of guidance, and people on the ground are responding to that positively. However, the process is tough. In particular, it will take people a while to genuinely get to grips with the resources issue.

Alex Rowley: Mr Sinclair touched on health and social care partnerships. I think that I said earlier that there is a view that, financially, they are being set up to fail. Right now in councils, budgets for social work and older people, which are to be transferred, are overspending. Health budgets are also overspending and there is no evidence that acute funding is starting to transfer across to community funding. How do we pull the two budgets together? Are those partnerships being set up to fail because there is simply not enough money to meet the growing demand that comes from demographic change and from trying to move people out of hospital and into the community? How can we start to see that transfer from acute care into the community, for example, if that is the direction that the policy says that we are going in?

10:45

Caroline Gardner: There are a couple of points to make. It is always harder to make partnership working work when money is tight than it is when there is more money going into the system. It is natural for people to be concerned about the resources in their organisation, their staff and the services that they are required to provide. There is a real challenge in making community planning, the health and social care partnerships and other partnership working work in that context.

As we say in the report on care for older people that we published jointly two or three weeks ago, there are particular demographic pressures. The population is getting older at quite a fast rate, which brings more demand for both health and social care, as you have described. In the report, we identify some good local examples of people in health—in both primary and acute care—and in social care sitting down and saying, “For this quite small group of older people, what can we do not just to get them discharged from hospital more quickly when they are ready, but to avoid admissions that are not needed?” We know that that can make a real difference both in improving care and in shifting the shape of services.

The open question is how health and social care partnerships will manage the same thing when their focus is primarily on services in the community, whether those are healthcare services or social services. We cannot leave the question of the acute hospital and acute hospital resources out of that. The dialogue needs to be about care in the round even though the focus of the partnerships is primarily on community-based services. We have still to see how that will work through. As Douglas Sinclair hinted earlier, the community planning partnership must have a role in setting that vision for the area as a whole, and it needs to make clear in each part of Scotland how it links with the health and social care partnership even though the Government has made it clear that there is no hierarchical relationship.

The Convener: Given your responsibilities as the Auditor General and the chair of the Accounts Commission, how are you co-operating to deliver the audits, which will be quite new? Is there any conflict, or is it all rosy with the pair of you?

Douglas Sinclair: The work that we did on community planning audits, which involve the council and the other parts of the public sector for which Caroline Gardner is responsible, provides a good model that we can use in auditing health and social care. It is really important that health and social care partnerships start off not by saying that they do not have enough money, but by asking how they can get better value from the money that they currently have and how they can redesign

jobs and services so that they can take a more integrated approach for the clients who need that.

The Convener: Ms Gardner, do you think that everything is rosy between you and the Accounts Commission in terms of your joint audit work?

Caroline Gardner: We are absolutely committed to working closely together. Douglas Sinclair said in his opening remarks that the audit framework is unique in the United Kingdom, and that is true. It means that we can look together right across the range of public services and from Scottish Government resourcing right down to how money is being spent in a local community or by a local general practitioner. We do that by working together through the good offices of Audit Scotland, and we have demonstrated our ability to join up in the same way as public money needs to join up.

Alex Rowley: Can I ask one more question, convener?

The Convener: It must be very brief, Mr Rowley, as other members are waiting.

Alex Rowley: I want to pick up on the point that Douglas Sinclair just made and a point that was made earlier. One of the most helpful reports that I have read in the past year or so is the report by the Society of Local Authority Chief Executives and Senior Managers on benchmarking across Scotland. I agree with the suggestion that the health and social care partnerships must look at how, by pulling together those organisations, they will make savings as well as deliver better services and meet growing demand. That is a massive challenge. How can you help with benchmarking?

The Convener: Please answer briefly, Mr McKinlay. Mr Rowley is new to the committee and probably does not know how much work we have done on benchmarking.

Alex Rowley: Actually, I do.

Fraser McKinlay: You probably know that the commission was very keen on—indeed, it was a major driving force behind—the SOLACE-COSLA local government benchmarking framework, as it is now known. We are delighted to see that up and running—it has been published and is increasingly being used. Our role is, first, to ensure that, on behalf of the commission, we are satisfied that what councils are doing and what they are reporting enable us to fulfil our statutory duties and allow comparison between councils over time. Increasingly, councils are using that information to improve services.

The Convener: We will return to benchmarking shortly.

Anne McTaggart: I will be quick because I think that all my questions have been answered. I was

heartened to hear earlier that you feel that the culture has changed since May 2013. That is all I have to say.

The Convener: Any comments on that?

Douglas Sinclair: No.

Fraser McKinlay: No.

Mark McDonald: Going through the planned audits for the coming year, I notice that although quite comprehensive work has been done recently on ALEOs, there does not seem to be any mention of ALEOs in the work programme. In the city of Aberdeen, which I represent, an arms-length trading company was established recently to operate adult social care services. That is unique in a Scottish context, although there have been some high-profile examples south of the border and it would be fair to say that the performance of those organisations—how they have operated—has been mixed. Is it on the agenda of either the Accounts Commission or Audit Scotland to look at the Aberdeen arms-length company, given its unique nature compared with the other arms-length organisations that exist?

Douglas Sinclair: In paragraph 7 of our work programme brief, we mention the “How councils work” series. One of the reports in the series was on ALEOs—“Arm’s-length external organisations (ALEOs)—are you getting it right?” That report encouraged councils to examine carefully why they were setting up an ALEO, to ensure that they managed the risk and to ensure that they had good governance in place. The report has been extremely helpful, as indeed have all the other reports in the “How councils work” series. It is ironic that the Accounts Commission is not an improvement agency and yet the reports that have probably had the most impact on councils have been from the “How councils work” series.

We have asked the controller of audit to come back with a further report on ALEOs across Scotland. We want to get a handle on why councils have established ALEOs. Is it about saving money or is it about service improvement? We want to get a better handle on how the governance arrangements are operating across councils and we will draw conclusions from that report. I think that it is scheduled for May.

Fraser McKinlay: The work programme brief that you have in front of you focuses only on the performance audit work. As we say in paragraph 1 of the brief, we will be doing a lot of other work on local government but the brief focuses on the national performance audit programme.

Mark McDonald: I do not seek to diminish sport and cultural services in any way, shape or form but I raised the issue because the new company will provide care. When care is being provided,

particularly when it is for some of our most vulnerable citizens, there is a need to ensure that effective governance and scrutiny arrangements are in place for any organisation or body that is set up. I am heartened by the fact that the Accounts Commission and Audit Scotland at least appear to be cognisant of the issue.

Stuart McMillan: I am one of the few members of the committee who has not previously been a councillor, so sometimes I have questions that may seem a wee bit daft laddie. However, I do not think that members who are councillors or former councillors could ask those particular questions.

Your work programme shows that you will be out looking at Scotland's public finances and the borrowing and treasury management in local government, as well as school education. One thing that has struck me in recent years is the budget process that takes place within the local authorities; I am not sure whether the process is the same across all 32 local authorities, but I am aware that in some authorities the administration announces the budget on the day that the budget will be voted upon. There is not a tremendous amount of scrutiny that could take place in such a situation. In the national budget process, the Government of the day produces its draft budget, which then goes out for discussion and consultation.

From an auditing perspective and from the perspective of examining the local authorities' performance—notwithstanding the public scrutiny element and the level of public engagement—if a different budgeting process took place in local authorities, would that help the populace within each local authority area as well as helping you to ensure that the public pound is being spent wisely and perhaps better? At the same time, some of the local political differences might be a bit less—I know that the latter point is not an issue for you.

Fraser McKinlay: First, broadly speaking, the timetable and the process are the same, but each local authority manages the process slightly differently. For example, some councils set up a budget working group, which is typically made up of members of all the political parties.

Our sense is that the budget cycle has improved over the past few years. In fact, I think that the people who are involved in the process would tell you that it virtually never stops. There is a constant process of looking ahead as budgets reduce. It is a more complex exercise and some councils are undertaking priority-based budgeting or zero-based budgeting—whatever they would call it. Different models are in use, but broadly speaking I would say that, if anything, it is getting a bit better. Even if the formal budget proposal is made public on the last day, there is a reasonably

good chance that quite a lot of work has been done leading up to that.

Mr McMillan mentioned in passing the public engagement aspect. That is a hugely important part of the exercise. Again, I think that lots of councils are improving on that. There is a long way to go when we are trying to engage communities in a meaningful conversation about what the priorities are for council spend. That is quite a big ask. It is still very much on the consultation end of it, which is good, but I think that there is a way to go.

Our interest, obviously, is first and foremost in councils setting a balanced budget, which they all managed to do. We then look at the process and, importantly, the information that councillors have at their disposal when they are making quite important decisions, particularly around savings gaps. Increasingly, budgets will identify how much is required to be saved over X number of years. The robustness of that data is an important part of our interest as well.

Douglas Sinclair: First, in many councils there is now a coalition, so it is not a case of a single party coming forward with a budget; the budget has often been through a pretty complicated and protracted coalition process.

Secondly, we will publish shortly, in our "How councils work" series, a paper on option appraisal. We are trying to encourage councils to get behind the cuts. We are asking them, before they make a cut, whether they have critically examined whether there is another way to provide the service. They should not assume that the way in which they do it at the moment is the only way to do it. Someone else might be able to provide a service that costs less or is of better quality. Increasingly, councils are having to do that. To date, they have in a sense balanced their budgets by cutting their manpower, which is not sustainable in the long term. They must get in behind the budget cuts and ask whether there are different ways of providing the service. They have to demonstrate transparent value for money.

Stuart McMillan: I will pose the same question that I posed in the earlier private session. What role do you have in scrutinising the public pound with the urban regeneration companies?

Fraser McKinlay: We do not audit the urban regeneration companies directly. There are parallels with some of the conversations that we have had today about ALEOs. However, where we have powers collectively is through following the public pound. If the URCs are funded, as I think that many of them are, via a combination of councils, Scottish Enterprise, Highlands and Islands Enterprise—a variety of sources of public

funding—we can trace that spend. It is a bit more complicated, but we can do it.

We continue to keep future performance audit work under review. The committee has in front of it our 2014 programme, but we are already thinking about what 2015-16 might look like. Economic development, and the economy, is always an important part of our programme development work, so we are happy to feed the role of the URCs into that thinking.

John Wilson: The briefing paper for today's meeting says that the annual local government overview report is due out later this month. Are there likely to be any surprises in that report?

Douglas Sinclair: No. We are saying that the messages are the same: the agenda of continuous improvement, and the importance of good governance, good accountability and understanding roles and relationships. However, they are none the worse for being repeated.

The Convener: Thank you for your evidence. I hope that the Accounts Commission and the Auditor General will be able to co-operate fully with the new landscape that we are embarking on or, in some cases, have embarked on. All the best for this year.

10:59

Meeting suspended.

11:05

On resuming—

Community Empowerment (Scotland) Bill (Draft)

The Convener: We move on to agenda item 3. I welcome our third panel of witnesses, who will provide evidence on the draft community empowerment (Scotland) bill and the consultation on it.

We have with us Councillor Jonathan Findlay, Glasgow City Council; Anna Whelan, strategy manager, Orkney Islands Council; Ritchie Johnson, director of housing and social work, Aberdeenshire Council; Pamela Rocco, community engagement co-ordinator, Edinburgh partnership; and Linda Johnston, corporate service improvement manager, North Lanarkshire Council.

Do any of the witnesses have brief opening statements to make?

Ritchie Johnson (Aberdeenshire Council): Yes. To give a wee bit of context, I point out that I am here as the director of housing and social work and as community planning lead. The council and the partnership support the intent and spirit behind the bill. I guess that, as ever, the devil will be in some of the detail of its implementation.

Councillor Jonathan Findlay (Glasgow City Council): I am here in place of Baillie Aileen Colleran, who is our executive member for communities and the chair of the Glasgow community planning partnership.

I am chair of the north-west sector community planning partnership in Glasgow—Glasgow has three sectors. I am also vice-chair of the planning applications committee, and there has been some indication of a need for a bit more synergy in community planning and land-use planning. For my sins, I am also a solicitor for another local authority and take a particular interest in common good.

Glasgow City Council considers the bill to be wide ranging. It is almost trying to do too much, but we are supportive of many aspects of it, albeit with some practical qualifications. We are particularly supportive of the measures on asset transfer, improving service delivery, dangerous buildings, strengthening community planning and local business rates relief. However, we have some serious concerns regarding common good and the community right to buy in urban areas.

The Convener: I point out that there is no bill; there is a draft bill at the moment. Beyond that, we recognise that it covers a broad spectrum of responsibilities and that you will probably not be

able to comment on them all today. If, in future, there is anything that you want to let us know, you can do that in writing.

Linda Johnston (North Lanarkshire Council): North Lanarkshire Council has a long history of partnership working and, in particular, supporting third sector organisations—that issue has already been discussed. We recognise the importance of the third sector's contribution to regeneration and sustainable growth through the delivery of many of our local services in North Lanarkshire.

Like our colleagues who are present, we support the proposed bill in principle. We realise that fulfilling some of its requirements will present significant challenges along the way and will have significant implications for perhaps already stretched resources in councils.

Pamela Roccio (Edinburgh Partnership): Thank you very much for inviting me, convener.

I am the Edinburgh partnership's community engagement co-ordinator—the role demonstrates the importance that the partnership places on engaging and involving communities in the community planning structure. I am co-ordinating the response for the council and the CPP, both of which welcome the proposals in the draft bill.

Anna Whelan (Orkney Islands Council): I am strategy manager for Orkney Islands Council, and I manage our community planning partnership.

We were pleased to hear that the emphasis in the bill will be on flexibility, not consistency. The latter can impact adversely on smaller communities, particularly more idiosyncratic ones such as those in Orkney. I was also pleased to hear the minister say that he had learned already that there is no adversarial issue between councils and local communities, because the wellbeing of our local communities is everybody's top priority.

I hope that we will be able to discuss the role of third sector interfaces. We note that they will still not be statutory partners in community planning under the provisions in the draft bill. We would like them to be statutory partners.

The Convener: We will start off with third sector interfaces. Ms Johnston spoke about North Lanarkshire's history of involving the third sector in partnership work. Does the third sector have a role at the very highest level of community planning partnerships? Perhaps the witnesses can explain what that role is and who the representatives are.

Linda Johnston: Our third sector organisation, VANL, has a place at North Lanarkshire partnership board meetings. June Vallance is the usual representative from that organisation, and she plays a very full role around community engagement and the services that VANL delivers. In addition, we have a working group whose

theme is developing the partnership, and that group also has a representative from the third sector.

The Convener: VANL? You are talking in acronyms, Ms Johnston.

Linda Johnston: Sorry—VANL is Voluntary Action North Lanarkshire.

The Convener: Thank you. We know that, as many of us visited North Lanarkshire recently. Are you saying that there is third sector representation at the highest level of the community planning partnership?

Linda Johnston: Yes.

Councillor Findlay: Our community planning structure in Glasgow is effectively a pyramid. We have a strategic board at the top, and then three sector partnerships. I am chair of one of them, representing the north-west, the north-east and the south of the city. We also have 21 area partnerships at ward level. We have third sector representatives at each level: at the top level, at the sector level and at the area partnership level.

The Convener: So there is third sector representation at the strategic board level.

Councillor Findlay: Yes. The third sector has a vote on each of those bodies, just as councillors or other representatives have.

Ritchie Johnson: Our structural arrangements are similar to those of Glasgow. We have a strategic board, on which the third sector is represented at the highest level, which is the executive group. We also have six local community planning groups in Aberdeenshire, partly to reflect the geography and partly because it is key that we engage people at the local level so that they can influence service delivery. We would certainly welcome some discussion about how that approach can be strengthened. If that is where we are going, we would certainly support that.

There is a related point, which we might get to later in the discussion, about the composition of community planning partnership boards and their remit and responsibilities. Those issues are relevant to the wider debate.

Anna Whelan: Our local body, Voluntary Action Orkney, is a founder member of our partnership and has been at the forefront right from the beginning, in 2000. The first time round, in 2003, it was disappointing that the legislation did not give greater recognition to the role of the voluntary sector. This time round, Voluntary Action Orkney made a submission suggesting that third sector interfaces should have a more formal statutory role, given that partnerships are now established in every area of the country.

Pamela Roccio: The director of the Edinburgh Voluntary Organisations Council—EVOC—is on the Edinburgh partnership board. The Edinburgh partnership has an executive, on which the director of the volunteer centre sits. They represent the Edinburgh compact partnership, which involves the third sector, social enterprise and so on.

John Wilson: How does your community planning partnership ensure that its third sector and voluntary sector representative communicates with the voluntary sector and third sector organisations that they claim to represent? For example, how does Glasgow Council for the Voluntary Sector, which is an umbrella organisation for, I think, more than 300 organisations in Glasgow, communicate with those organisations that it represents about what is taking place and what it, as the voice of the voluntary sector, is saying on the community planning partnership?

11:15

The Convener: Councillor Findlay, you can go first since Glasgow was mentioned.

Councillor Findlay: John Wilson's question highlights the fact that there is a difficulty with some of the representatives who are on community planning partnerships, and with identifying effectively who to pick to go on them. There is also a question as to whether we should have private sector input from local businesses, but, again, who do you pick?

I will come back to the committee about the mechanics of how the third sector representatives listen and relate back to the myriad groups that they purport to represent. It is not as if there is an umbrella body that can be represented on the CPP. Often, individual third sector organisations sit on CPPs and give a third sector voice, but they do not speak on behalf of the third sector in general. There is a difficulty there. I will certainly come back to the committee about the mechanics of how the third sector reports back to a representative body, if you like, of third sector organisations in the area.

The Convener: While we have been taking evidence on other topics that we have covered of late, we have found a difficulty with that word "pick". A lot of bodies do not see themselves as being represented by the person who has been picked to represent the voluntary sector. That might be one of the difficulties that have yet to be overcome.

Anna Whelan: We must remember that community planning does not just happen in the central board or steering group or whatever you call it. It happens in the other groups that are

involved. In Orkney, we have a network of thematic groups. We have one specifically for the third sector—the third sector forum, which is chaired by Voluntary Action Orkney and has members from a wide range of different groups. Those members also sit on subject-specific groups, so they are very well disseminated throughout the partnership.

The third sector comes into its own in the work that we are doing on preventative services, particularly through the change fund, where it is an active partner with the health board and the council.

The Convener: We are well aware of the different structures and the representation at various levels within those structures. We have found that folks have been most concerned about representation at the top.

Ritchie Johnson: John Wilson asked a good question; indeed, for us in Aberdeenshire, how we get the most out of our third sector interface generally is a live question that is a bit wider. The third sector plays an active role at the highest level, and although I recognise the point about structures and other ways of contributing, that is the reality in Aberdeenshire. Local third sector groups are very much involved in our local community planning groups. It is absolutely right that in community planning, the priority is the partnership and its commitments, but we are also trying to reinforce a culture, or a way of working, that becomes naturally how we work. Formal structures should be the means to an end, rather than being the end in itself.

Linda Johnston: The third sector in North Lanarkshire is intrinsically linked throughout the delivery of services. It is not seen as a bolt-on partner at all. A pilot joint resourcing project in the Craigneuk ward is being led by our third sector, with support from council officers and so on. At the strategic level, we have just started looking at the joint resourcing aspects that were mentioned earlier. Again, the third sector is very much a partner at that table. We just see that as part of our normal everyday businesses.

Pamela Roccio: I agree with that. It is the same for us. EVOC represents the interests of the third sector and it certainly has an excellent reputation for engaging with and involving the third sector around council or CPP priorities. We can demonstrate that time and time again through joint resourcing and so on.

The Convener: We will talk to third sector representatives next week, so it will be interesting to see whether they share your opinions.

On another aspect of community empowerment, we have had discussions in various places about the representation of folk from communities. Do

you have community representatives at the strategic board level in your area?

Anna Whelan: We have democratically elected representatives from the council.

The Convener: But is there any community representative who is not an elected member?

Anna Whelan: Our third sector interface representative is a very good link into our local community.

The Convener: So the answer is no—there is no community representative.

Anna Whelan: It depends how you define that.

The Convener: I define it as somebody from the community who is not from the third sector interface and who is not an elected member, so the answer is that, at the strategic level, Orkney does not have any community representation on its strategic board.

Anna Whelan: I think that our members from the council might argue that they are in that position.

The Convener: They might well do that, but I am trying to get at a certain point and I am not including elected members.

Ritchie Johnson: We engage with three community councils in that way, but beyond that, I agree with Anna Whelan's comments in relation to the wider representatives.

Given the changing governance landscape around community planning, we in Aberdeenshire are looking at who should be on the board and who can add most value, given what we are seeking to achieve. I agree with a number of the comments that the Auditor General and the minister made earlier about ensuring that we add value in community planning terms. With the changing landscape, it is time for us to pause and ensure that we have the right people round the table. That might well involve including community representatives in a more formal and meaningful way.

The Convener: So the answer at the moment would be no.

Ritchie Johnson: That is right.

Councillor Findlay: We have community representatives who are mainly from community councils. We have between four and six of them on each of our ward-based area partnerships. We also have community representatives on each of our three sector bodies, each of which is probably larger than many other community planning partnerships at the strategic level. However, we do not have any community representatives at the strategic, centralised level.

Linda Johnston: Under the definition that the convener gave, our answer would be no. People from local communities feed in through lower levels.

Pamela Roccio: We have such two places on the board. One is for the Edinburgh association of community councils, which is an umbrella body for community councils—they come together and elect a person to sit on the Edinburgh partnership board. The other is for a board member who brings an equalities and rights perspective.

The Convener: Okay. Thank you.

Cameron Buchanan: Mr Findlay, you state in your submission:

“The definition of a community body is very broad It is suggested communities of interest should be included rather than simply communities of place.”

Will you expand on that comment? It is in annex G in our committee papers.

Councillor Findlay: That was in relation to—

Cameron Buchanan: It is in the section headed “Community rights to request to participate in processes to improve service delivery”.

Councillor Findlay: Sorry—do you have a paragraph number?

Cameron Buchanan: Yes. It is paragraph 3.7 in your submission. I did not understand what you mean by

“communities of interest should be included rather than simply communities of place.”

Councillor Findlay: That relates not to physical communities but to communities of interest—those who have an interest in social care, mental health issues or various other things that are not necessary based in one geographical location.

Cameron Buchanan: Are they not one and the same thing?

Councillor Findlay: No. A local community could be—

The Convener: Can I help? Would it include folk such as ethnic minorities, the Gypsy Traveller community and lesbian, gay, bisexual and transgender folk—that kind of community of interest?

Councillor Findlay: Yes—absolutely. Thank you, convener.

Cameron Buchanan: Thank you.

Mark McDonald: In the earlier evidence session with the minister, I touched on the issues that can arise around public liability insurance, particularly in situations in which local community organisations are looking to take on, or have taken on, the operation of an asset on a leased basis

or—as happens in some cases—on an ownership basis. How do you see that landscape being affected by the proposed bill?

At present, some community organisations feel that they cannot take the step to take on ownership of an asset because of what they see as the potential liabilities that could arise, but I know that, in some leased arrangements, the local authority umbrella of public liability insurance captures those groups and gives them some comfort. Do you regard that as a sensible way in which to proceed and one that could be captured in the bill?

The Convener: We will go from right to left for the answers this time.

Pamela Roccio: It is not for me to decide on the issue at this time. We have talked about building capacity and providing support, which would be part of the discussion about how we implement the bill.

Linda Johnston: Our stance is similar to that of Edinburgh. It is not for us to make the decision at this time.

Mark McDonald: If I asked you not to make a decision but to offer an opinion, would that change the responses?

Pamela Roccio: I believe that, if something is working well, we need to take cognisance of and understand that. I would like to learn lessons from areas where the model is working well and is a good model to take forward.

Linda Johnston: The approach would be looked at case by case. It would not necessarily be consistent across the board and would depend on circumstances.

Councillor Findlay: I am fortunate enough to know about the issue as a councillor, because of asset transfers in my ward, and from a professional point of view, as I worked for a local authority that undertook asset transfers. Insurance might well be included in considering the market value or the package that is put together for a transfer, whether that involves a lease, ownership or whatever.

When the minister gave evidence, the issue of market value was raised. We in Glasgow have made it clear that we cannot ignore market value, but we can take into account the community and other benefits that would be accrued and offset them against market value. That might well include an element for insurance—whether that is public liability insurance, buildings insurance or whatever.

When a property is leased on a long or a short lease, the council frequently retains liability for the insurance, although the organisation that takes on

the let might make a full or partial contribution to the insurance cost. That might get round some of the issues.

Ritchie Johnson: We see the draft bill as helpful in moving towards getting a good outcome for community groups. We have a community asset transfer policy that will reflect some of the issues. If it would help and be of interest to the committee, we can share that after the meeting.

The Convener: It would be useful if you sent that to the committee. It would be useful for us to look at the experiences of rural areas, some of which have made advances more quickly than urban areas.

Anna Whelan: This is a good example of one size not fitting all. In Orkney, which is a small community, ownership of assets by the council is largely regarded as community ownership already. We do not expect a big uptake of the measure, because bodies are often happy for the council to take over the liability for maintaining buildings. However, we are open to proposals. I agree that specific liabilities would have to be considered case by case.

Mark McDonald: I will look further into community groups. The third sector has been mentioned; it has a broad definition that captures charities with millions of pounds in reserves down to one or two-person operations. Conflicts can arise in communities between community groups that to all intents and purposes do similar things but from different perspectives or which were formed as individual groups because of the personalities involved. How do local authorities assess the approach that a community group takes or the work that it does to ensure that conflicts that might exist in communities are not exacerbated?

Anna Whelan: The question is interesting. I will not go into the details of individual disputes in Orkney, but there is definitely a potential tension between long-established groups such as community councils—we probably have the best-established network of them in Scotland—and newer groups, such as development trusts, that are set up to deal with what might be seen as more exciting and newer projects. Our task as a partnership is to keep all those groups focused on our overriding aims, which are expressed in the single outcome agreement. We want to do the best for our communities and not let individual tensions get in the way of that.

11:30

Ritchie Johnson: Our decentralised structure gives us some good connections back into our communities. I will not go into individual cases, but we would act as a facilitator, as best we could, to

ensure that—as far as possible—we got some kind of local consensus. I know that that is a very general answer, but thankfully there have not been too many occasions that I could point to in the recent past when the divisions were such that they caused a rift locally.

Councillor Findlay: In Glasgow, one of our concerns about community planning is that it is often seen as being about neither communities nor planning. We are seeking to deal with that perception through community budgeting and community asset mapping, whereby we map the assets and services in a community with the help of local people, community councils and the community planning partners. By doing that—there is an on-going exercise to digitally map a lot of that information—we can look, in relation to relatively small budgets, at where there is duplication or gaps in service provision or the provision of facilities.

That approach, combined with a requirement that I hope the bill will bring in for community groups to submit a business plan if they seek an asset transfer, would enable us to look at the two or three business plans—or however many it is—that come in and ask, “What is the community’s plan? What is its ambition for the area? What is needed?” That would give the council a far better idea of who to pick.

The Convener: I think that Mr McDonald’s point was about what happens if tensions exist. What if one part of the community wants one thing and another part wants something else, or if one charity wants one thing and another wants something else? How do you deal with that situation?

Councillor Findlay: Basically, it comes back to local need. If an established need has been identified in the area through the community planning partners, community councils and local residents, surely a proposal that comes in that better meets that need should be given priority.

Linda Johnston: In North Lanarkshire, we have local regeneration managers who work very closely with the communities. They have a difficult job when tensions arise, but they try to mediate and so on. We also have local area action plans that set out the priorities for areas, and those are linked back up through the various strands of the single outcome agreement.

Pamela Roccio: Similarly, we have local community plans, which set the priorities for an area.

I would emphasise the importance of building positive relationships and of the role that can be played by mediation and facilitation. We can also support such a role when there is conflict and make it clear, for example, in the scheme of

community councils and so on. We can undertake a positive role.

Mark McDonald: I note from the submissions that there are different views on the definition of a community body. What I was driving at in my previous question was that community councils are the statutory consultee that a council has to consult, so it does not necessarily have to consult other community groups and organisations. How cognisant are councils of the various groups that might list themselves—or be recognised in communities—as community organisations even though the council might not recognise them or have a formal relationship with them?

The Convener: I will add to that question. Over the piece, we have found that many community councils are not elected and that, in some places, they are seen as being self-appointed. In other places, they are seen as not being representative of the community while other bodies are seen as being so. How do you deal with that, Ms Roccio?

Pamela Roccio: We involve not only community councils, but all the other community bodies. Our definition is much broader. Everybody has a voice in the same way that community councils do.

I am saying that we would not see the picture that has been presented. Just because that is the statutory position, community councils are not the only vehicle. There are a huge variety and number of organisations and groups out there in particular service areas, such as tenants groups. Our duty is to involve and build relationships with all of them.

Linda Johnston: Similarly, we recognise that the statutory requirements relating to the community forum and the community councils do not always result in the local community voice being represented. We have community engagement officers who work in local communities alongside the local regeneration managers to ensure that we capture all the voices in each community.

Councillor Findlay: I do not doubt that defining a community body is a difficult job, as it can be all things to all people. Glasgow City Council has highlighted the use of the word “company” in the draft bill. We suggest that the word “organisation” should be used, as “company” usually refers to a limited company.

As I said, defining a community body is a very difficult task. It has been said that we cannot exclude any community body. In putting an obligation on the councils to consult X, Y and Z community bodies, we need to ensure that we do not miss anybody out. It is really down to the councils to ensure that they do not do so.

Ritchie Johnson: Again, I will start by describing how things work at a local level in Aberdeenshire, as that might help to deal with the question that was posed.

We have dozens—if not hundreds—of different types of community body across Aberdeenshire and, typically, we want to work with them in an absolutely inclusive way. At a local level, area managers have been appointed in our six areas in Aberdeenshire. They are the leads for community planning in their areas, so they will be closely engaged with societies, clubs, groups, bodies and communities of interest. That takes place at the local level, and we want that roundness of discussion at that level to continue.

In the wider sphere, we all need to come back to the question that was posed earlier about representation at the top table. The issue of how we can possibly represent all the disparate groups through a single voice is worthy of further consideration.

There is another thing that we will do in community planning at a strategic level over the coming months, after the Easter break. Through our community planning partnership, all the partners have agreed that we will hold community engagement events across Aberdeenshire. Every month, we will hold a session that all invited local groups will be welcome to attend. Those sessions will be wider local consultation events involving the key police, fire, health and local authority leads. The council has taken that approach for a number of years, but we have a recent agreement that the community planning partnership will do the same thing. Again, that is an effort to bring strategic community planning matters back into local communities as far as we possibly can.

Anna Whelan: Unusually, all our community council elections are contested, including even those on islands with a population of around 50 people, so the positions are clearly very sought after. We regard the organisations as very democratic and we consult them fully.

In a very small community, everybody is very visible all the time, of course. Our members certainly cannot walk down the street without somebody accosting them about something. In addition to our formal consultations, we are very accessible to the community in general.

John Wilson: It is good to hear that community council elections are contested somewhere in Scotland, as that is not always the case; it is unfortunately not always the case where there should be a real contest.

As I said earlier, I must declare an interest. On Friday, I signed a lease for and took possession of the keys to a local authority building. A representative of that local authority is here today.

I do not want to bore the committee with my experience of what discussions took place regarding the community asset transfer and the lease for that transfer, but I will ask the panel about competing demands, an issue that was raised in some of the submissions. One of the submissions said that any community decision to bid for an asset transfer of land or buildings to the community to operate and deliver services should not tie the hands of the local authority in dealing with who it thinks it best to transfer that asset to. Does the panel wish to comment on what may be a competing demand, particularly if there are commercial interests in land in which a community has identified its interest?

Anna Whelan: I think that we mentioned in our submission two scenarios in which there might be competing demand. In one scenario a transfer might be contrary to the council's long-term strategy and we would want to hold on to an asset for strategic reasons. The other possibility, of course, is a speculative acquisition, perhaps by a body that then passes the asset on to a third party. Our suggestion in that case is that the local authority should have a right to first refusal: when a community asset is going to be transferred on again, the council should have the first option to buy it back.

Ritchie Johnson: I have nothing to add on that topic.

The Convener: That is fine. Does anyone else wish to add anything? Not much response there, Mr Wilson.

John Wilson: As I said—

The Convener: Oh, sorry, Ms Roccio.

Pamela Roccio: Obviously, you have our submission. However, we are co-producing an asset transfer policy, which we hope will address some of the questions that people will ask. Initially, we have put out a call for people who want to be involved in the development of that policy—what it would look like, potential ideas of property and land and so on—to get in touch with me.

John Wilson: I was throwing out the question to find out whether the local authorities represented here have worked out a policy process for deciding whether a community asset transfer, when requested by a community, should take precedence over any other bids that are made for that property or land.

I will open up the question. Some of the submissions are from local authorities that have community asset transfer policies in place, but we have local authorities in front of us today that do not have such a policy. In the experience of those authorities that have community asset transfer policies, how they are working? To those local

authorities that do not have such policies, why do you not have such a policy?

Pamela Roccio: I do not know why there is not a policy in place at the moment. I can get back to the committee as soon as I find that out, but I do not have the reason for that.

The Convener: That would be useful. Are you aware of any community asset transfers that have taken place in Edinburgh in recent times? If so, under what circumstances did they take place, if there is not a policy? Were they dealt with on an individual basis?

Pamela Roccio: I would have to get back to the committee on that.

Linda Johnston: North Lanarkshire Council discussed a draft community asset transfer policy at a committee meeting on 20 February, section 2 of which clearly details what would be involved in a community asset transfer. The intention is that the document will go to committee for final approval in the August cycle this year.

Councillor Findlay: Glasgow City Council is developing a process, associated documentation and governance arrangements around community asset transfer and has set up a fund of more than £1 million to facilitate that. We have already had various transfers of community assets to organisations, for instance the transfer of the management of a community centre to its existing management committee and, in my area, the lease of a former tenants hall to a local youth group. However, such transfers are done on an ad hoc basis. The policy, which will be introduced in the next financial year, will provide the governance arrangements surrounding future asset transfers.

The Convener: When you say the next financial year, do you mean 2014-15?

Councillor Findlay: Yes.

11:45

Ritchie Johnson: Aberdeenshire Council agreed a community asset transfer policy last year and we have used it. Our experience is that it is a bit clunky—to use a technical term—and, because it is fairly new, people are perhaps a wee bit more cautious about it. However, there is an absolute commitment to make it work for all the reasons that we have described today. We hope that the bill will add value to our policy, and we are open minded about how today's discussion, and those that we will have in future, will help us to do that.

If it would be helpful, as well as sending a copy of the policy to the committee we could include some observations about its implementation in the early days, to show our learning or any issues that have flowed from that.

The Convener: We would appreciate that, Mr Johnson.

Anna Whelan: The issue is slightly outside my area of expertise. To the best of my knowledge, we do not have such a policy. Even if we did, we would want to revisit it once the bill was enacted because there are things in the bill that we would want to embed in any asset transfer policy.

Anne McTaggart: I am not normally the negative one on the committee, but I feel that I must be today. When you introduced yourselves, you said that the draft bill looks good and that you are all 100 per cent behind it. However, you said that there are implications. Are those financial implications?

Pamela Roccio: At the moment, the implications are around support and capacity building more than resource, but we do not know what the bill will look like. I suggest that we must be sure that we are talking about empowerment, and the ownership of property and land are not necessarily a measure of an empowered community. We could use other measures: we have talked about participative budgeting, co-production and the Christie recommendations on involving people in the design and delivery of services. For me, it is about building support and capacity to ensure that all communities—not just those that have resources—can be more empowered than they feel they are at present.

Linda Johnston: The implication may be financial, because the bill could result in the capital receipts going down or whatever, but that would be looked at as part of the cost benefit analysis for a property. From a practical point of view it is about capacity building, and our local regeneration managers need to be up to speed to support our organisations. It is about the processing of applications and the appeals process that people would need to go through. It is also about the changes to our service delivery mechanisms, the business support that we need to offer and the packages that we, as a local authority, must offer both to support businesses and, within our internal processes, to make it happen.

Councillor Findlay: My comments are much the same as those of the previous two speakers. The financial implications will be around better capacity building in the third sector organisations and our community councils.

The part of the bill that I think will have a financial implication for councils is that on common good property. Forcing councils to create common good registers would require a huge exercise in going through every one of their title deeds. For Glasgow City Council, that was costed at well over £100,000—it would possibly cost more now, as that was a good few years ago. In addition, a

definitive register of common good can never be set up because the definition of common good is not fixed. You might think that an asset was common good from reading its title deed, but you would have to look at the circumstances surrounding why it was bought, who it was bought from, what it had been used for in the past and what it was currently being used for. A huge amount of investigation would have to take place.

The local authority for which I am a lawyer has requested opinion from a Queen's counsel to establish whether a piece of ground is common good. That involves a huge cost. The part of the bill that relates to common good needs to be looked at again in relation to the—

The Convener: Can I stop you there, Councillor Findlay? I think that one of the things that baffles members of the public is when local authorities turn round and say that they are not sure about common good assets and do not have a register of them. It sometimes takes a very long time to establish whether a piece of land or property is held in the common good account. In addition, something held in that account might not belong to it, because it was never established as a common good asset. It is very difficult for members of the public to get their heads round the fact that local authorities often do not know what common good assets they do and do not own.

Councillor Findlay: I agree. It is a historical situation. I think that some burgh councils would not necessarily have known what was or was not common good; it goes back to the days of burgh councils, because it was their acquisitions that are now held as common good. Part of the problem is that not all acquisitions by burgh councils are common good. I can completely understand the public's frustration with councils trying to decide what is or is not common good, but the public must realise that a lot of things that might be classified by a council as common good are not assets but liabilities. A lot of common good is parks and things like that, which are a drain on the council's resources. If a common good fund was the only mechanism for paying for the maintenance of such things, they would not be sustainable.

The common good issue must be looked at fundamentally. I am not saying that we have to abolish it, but a clear definition of common good must be embodied in law. We do not have that, and even creating a register will not mean that elements of what the council owns will not be missed.

The Convener: Many folk out there would see what is proposed as an opportunity, but is it fair to say that you see it as more of a threat than an opportunity?

Councillor Findlay: It is muddying the waters. We need a proper definition of the common good in order to go forward. Even if councils spent thousands and thousands of pounds to create common good registers, they would not be definitive unless there was a proper definition of the common good.

The Convener: We might write to you individually about common good practices in your local authorities, because we could probably be here all day discussing common good alone. Do you have a comment, Mr Johnson?

Ritchie Johnson: I have nothing to add to my colleagues' comments about resources.

The Convener: Ms Whelan, do you have anything to add?

Anna Whelan: I will go back to the question, which was about the general implications and whether we are uncomfortable with them. There are one or two assumptions underpinning the bill that we are slightly uncomfortable with. One of them was encapsulated earlier by the minister, when he said that he had assumed that local authorities would be negative and try to put up barriers, and that other bodies would be against us, but we have established that there is no antagonism.

My other general point is about the community planning side. The auditors on the previous witness panel said that the earlier community planning audits were very critical. We felt that perhaps some of that critical attitude had fed into the draft bill. A second tranche of audits will be done before the Accounts Commission issues its definitive guidance and we have volunteered to be one of the community planning partnerships in that second round, because we felt that the report of the first three audits did not capture what was going on in Orkney, where we feel that we have got things to work pretty well. We feel that there may be a bit too much stick and not enough carrot in the draft bill. There is an assumption that people do not want to participate; we find that they do and we should be taking away some of the barriers to participation. I would be very happy if that was an outcome.

Cameron Buchanan: I will move on to the subject of allotments. I note that North Lanarkshire Council has no policy on allotments but that it is about to formulate an allotment strategy. Allotments are important in the cities, particularly in Edinburgh and Glasgow, but there is a great shortage of allotments there. The councils seem to be reluctant to provide allotments because they do not make enough money out of them and they require a lot of manpower and administration. Will you comment on that situation, particularly for Edinburgh and Glasgow? Obviously, North

Lanarkshire Council has not come up with anything yet.

The Convener: And there are also the bounds of the Allotments (Scotland) Act 1892.

Pamela Roccio: I would have to come back to the committee on that.

The Convener: I know that the issue can be complex and is not easy.

Linda Johnston: Although we do not have a strategy, we have many allotments across North Lanarkshire. We recognise their importance for health and wellbeing and they link with our themes, although, as our submission stated, we do not have a strategy on them.

Councillor Findlay: Glasgow City Council has a strategy on allotments, and we support the proposals on them. However, we have made a point about including raised beds and quarter and half plots, which are popular.

The council has also raised an issue in relation to the planning regime for changing public open space into allotments. That happened in my ward, and it created a bit of ill-feeling locally, but the planning position should be clarified so that it is perhaps easier to convert public open space. The public open space in my ward was in effect being used as a dog toilet, but local people did not want allotments because they thought that they were nasty things with old rusty sheds, whereas modern allotments can have no buildings and can basically be like a market garden. We need to be proactive in promoting those and ensuring that there are enough of them. I am the first to admit that there are not enough allotments to cope with the demand.

The Convener: Are there huge waiting lists?

Councillor Findlay: Yes.

The Convener: I see other folk nodding.

Ritchie Johnson: As you would expect in a rural authority, we have quite a number of allotments. Our approach or policy on that is dealt with predominantly by the housing service. Beyond that, I would need to get back to you with detailed comments.

Anna Whelan: I used to have an allotment in south London, so I am keen on them. However, this is another good example of a measure that perhaps does not fit so well with the strategic intent of the bill. The provisions are terribly detailed, as they have to take into account small communities. In Orkney, land is not as expensive as it is in places such as Edinburgh or Glasgow, so the issue is not so big. However, we are broadly in favour of what is proposed.

Cameron Buchanan: Should we be legislating on allotments? Is it worth doing so? What do you think about the proposal to define allotments rather narrowly?

Linda Johnston: We support the proposal in principle, but we would want the provision to be flexible and not specific about what the allotment size should be. I agree with my colleague from Glasgow that we should include raised beds and all the other options that are now available.

Councillor Findlay: I agree. There might also be an opportunity to look at private allotments. Many allotments in Glasgow are privately owned rather than owned by the council. There are also allotments on old British Railways land and various other types. We need to look at the whole gamut of allotments and how they have developed. For instance, many farmers might be interested in providing part of fields at the edge of towns for allotments.

The Convener: Does Ms Whelan or Mr Johnson have anything to add?

Ritchie Johnson: No.

Anna Whelan: No.

The Convener: I seek a quick yes or no answer. Do you think that the current legislation is a bit old hat and that it probably does not deal with all the modern-day scenarios? I am seeing nods of agreement from everyone—thank you.

Stuart McMillan: I want to take us back to an issue that we discussed 10 or 15 minutes ago, which is common good, notwithstanding the comments that we have heard and the correspondence that will take place. Some of the witnesses highlighted concerns regarding common good and issues such as lists. The COSLA submission states:

“Local Authorities should already hold a register of their common good assets in line with good accounting practice, so this should not be overly onerous.”

I am keen to quiz the panel on those comments from COSLA. Is that accurate or is it different from your experiences?

The Convener: Councillor Findlay, you had the most to say about that.

Councillor Findlay: Glasgow has a list of common good assets, although it is not particularly long. However, in line with many other local authorities, if there is a question about common good or a proposal to lease or sell an area of land or a building, we conduct a common good analysis.

We have not proactively gone through the huge raft of titles or done other investigations in advance of that, but we will consider the

circumstances of particular bits of land or buildings on a case-by-case basis and, if necessary, put them on the common good register at that stage. We do not have an absolutely definitive list at the moment.

12:00

The Convener: It is a complex area. Does anyone else feel able to answer that question?

Pamela Roccio: We have a register, and I would agree with COSLA's comments about ensuring that the process is not onerous in the future.

Ritchie Johnson: Our position is in essence the same. We have a register, and you will see from our submission that it would not be our starting point to add to that but, if a request was made about a particular piece of land, we would support the work of looking into that to ensure that progress could be made.

Stuart McMillan: The answers have been helpful. I return to your earlier comments, convener, when you said that the public may be a bit confused about common good. When it comes to proposals that moneys be taken out of a common good fund, I find it difficult to get my head around some of the responses. Although there is a common good list and there are funds, councils do not know exactly what is in common good. I cannot see how people can take money from a fund if they do not know whether it is complete. I find that quite strange.

The Convener: Would one of the witnesses like to tackle that?

Councillor Findlay: It sounds like an accounting issue to me.

The Convener: That is a solicitor saying, "I am not an accountant." I have heard that one before.

It is a complex issue, and I could probably fill two hours at the very least with stories about such complications. There is quite often a public perception that something is held in common good when it is not. As Councillor Findlay said, people may find that the burgh transferred a piece of land or property to another account 80 or 90 years ago, although the common perception is that it is still held in common good.

If we could get more detailed responses on common good, it would be extremely useful to know where the witnesses' organisations are in terms of registers and how they deal with some of the questions that they receive regularly.

Have you asked all your questions, Mr McMillan?

Stuart McMillan: Yes.

The Convener: I thank the witnesses for their evidence. The clerks will provide a note on what further evidence we would like. I realise that it is a complex area and that some of you may have restricted knowledge and may not be able to cover all that the bill encompasses.

12:03

Meeting continued in private until 12:19.

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