

LOCAL GOVERNMENT COMMITTEE

Tuesday 7 March 2000
(Afternoon)

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CONTENTS

Tuesday 7 March 2000

	Col.
SUBORDINATE LEGISLATION	653
POLITICAL PARTIES, ELECTIONS AND REFERENDUMS BILL	669
ETHICAL STANDARDS IN PUBLIC LIFE ETC (SCOTLAND) BILL: STAGE 1	679
PETITIONS	693
VISITS TO COUNCILS	699

LOCAL GOVERNMENT COMMITTEE **8th Meeting 2000, Session 1**

CONVENER :

*Trish Godman (West Renfrew shire) (Lab)

DEPUTY CONVENER:

*Johann Lamont (Glasgow Pollok) (Lab)

COMMITTEE MEMBERS :

*Colin Campbell (West of Scotland) (SNP)

*Mr Kenneth Gibson (Glasgow) (SNP)

*Donald Gorrie (Central Scotland) (LD)

*Mr Keith Harding (Mid Scotland and Fife) (Con)

Dr Sylvia Jackson (Stirling) (Lab)

*Mr Michael McMahon (Hamilton North and Bellshill) (Lab)

*Bristow Muldoon (Livingston) (Lab)

*Mr Gil Paterson (Central Scotland) (SNP)

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

*attended

WITNESSES

Robert Aldridge (Scottish Council for Single Homeless)

Ted Davison (Scottish Executive Local Government Division 2)

John Dickie (Scottish Council for Single Homeless)

Bill Howat (Scottish Executive Development Department)

Malcolm Lauder (Scottish Executive Civil Law Division)

Mr Frank McAveety (Deputy Minister for Local Government)

Mr Jack McConnell (Minister for Finance)

Anne Patrizio (Parents Enquiry (Scotland))

Jamie Rennie (Stonewall Youth Project)

CLERK TEAM LEADER

Eugene Windsor

ASSISTANT CLERK

Craig Harper

LOCATION

The Chamber

Scottish Parliament

Local Government Committee

Tuesday 7 March 2000

(Afternoon)

[THE CONVENER opened the meeting at 14:03]

The Convener (Trish Godman): We are three minutes late, so we should start. Welcome to this meeting of the committee.

Subordinate Legislation

The Convener: The first item on our agenda is consideration of statutory instruments. Rule 10.6.3 of standing orders allows for a debate on draft affirmative instruments of up to 90 minutes. As the instruments that are before the committee are all designed to achieve the same objectives, I suggest that we agree to hold one debate to cover all seven instruments. I suspect that that will not take 90 minutes, but standing orders allow us to take that long if members so wish. Do we agree to debate the instruments together?

Members indicated agreement.

Mr Kenneth Gibson (Glasgow) (SNP): As the next agenda item is scheduled for 2.45 pm, that is probably a good idea.

The Convener: You noticed the deliberate mistake, did you?

Members of the committee received an e-mail on this subject on 24 February. The Subordinate Legislation Committee report has also been made available. No comments have been received by the clerks so far—except from Donald Gorrie, who is not here at the moment. If he arrives later, I will pick up on what he said.

Before the debate, I will introduce the team. As members know, Jack McConnell is the Minister for Finance. On his right is Bill Howat and on his left is Peter Hancock. Behind them are Stephen Orr, Ian Christie, Paul Cackette and Alex Mowat. The minister will not be able to answer any technical questions. Such questions should be addressed to the civil servants. [*Laughter.*] For some reason, that has caused great hilarity among SNP members.

Do members have any questions about technicalities, as those must be dealt with before we begin the formal debate?

Bristow Muldoon (Livingston) (Lab): This is not really a technical question—

The Convener: Why are you asking it then?

Bristow Muldoon: You will hear why. I want to make a technical declaration of interest—at the time of the election, I was an employee of Great North Eastern Railway Ltd, which is one of the organisations whose rateable values are being assessed today. I have no current pecuniary interest in GNER.

Mr Gil Paterson (Central Scotland) (SNP): I should declare an interest, because I own businesses that pay a lot of rates.

I have two questions. First, from reading the documents, am I to gather that these utilities would be assessed individually for a given area? For example, would electricity lands in the Grampians be assessed separately from those in the Borders, or would the rate apply to the whole utility?

Secondly, we have been informed in an explanatory memorandum from the Executive that the

“non domestic rate income that will be raised from business in Scotland after the revaluation will be the same in real terms as before.”

I understand what that means—in Scottish terms, the take will be exactly the same. Can you clarify whether that means that there will be winners and losers in Scotland? I understand that values in Scotland are generally lower than values in England. Although there will be losers and gainers in England as well, will England as a whole be gaining and Scotland losing, because the playing field has been levelled?

Bill Howat (Scottish Executive Development Department): I should begin by clarifying that the numbers that appear in the orders have been negotiated entirely through a consultation process between the assessors and the relevant industries.

Mr Paterson's understanding of the first point—apportionment—is correct. Indeed, as many of the industries are UK-wide, wide-ranging consultation—involving the industries, the Valuation Office Agency south of the border and the Scottish Assessors Association—begins at UK level. The orders that I hope the committee will approve today will determine a figure for each of the industries in Scotland, which each of the 14 assessors will apportion within their area. In agreement with the industry, the assessors will apportion elements of the total that are relevant to the area.

The second question was about winners and losers. You said, Mr Paterson, that we had calculated the poundage to maintain the tax take in real terms. In effect, that means that the average uplift in Scotland will be of the order of

12.5 per cent. You are right in saying that there will be winners and losers. Even within individual areas there will be winners and losers. Some parts of Edinburgh, for example, have experienced considerable growth, where the market evidence has led the assessors to conclude that there is a significant uplift. In some areas the uplift has been 30 or 40 per cent, whereas in other areas there has been a decrease. We have published the calculations of the poundage figures, which show the overall effect, but we will not know the final swings—who is gaining and who is losing—for more than a year. We will not get that information from the amounts that the assessors bill over the next few weeks, because there will be a large number of appeals, which it will take time to work through.

Finally, you asked about the difference between Scotland and England. In principle, there is none whatever. We have applied an uplift factor of 13 per cent to the non-formula valued industries in Scotland, whereas in England the expected uplift is 24 per cent. The same calculation has been applied—the swings and roundabouts in England will happen within the same overall tax take in real terms. The same principles have been followed north and south of the border.

Mr Paterson: There was a fourth question, which is whether the values in Scotland are lower than those in England. That might be an unfair question, because you may not yet have that information.

Bill Howat: I do not have that information. It might be better to address that question to the assessors. We could give the committee a note on that, if it would be helpful. I could make an estimate of the total Scottish rate valuation basis, but that might not provide a direct answer to your question. I will come back to the committee on that.

Mr Paterson: That would be very helpful.

Donald Gorrie (Central Scotland) (LD): I apologise for being late. The comparison with last year's figures is very helpful. Without such a comparison, the documents are of limited interest. Can you persuade me that this is a scientific exercise, rather than a modern form of alchemy?

Bill Howat: I am tempted to say no. If you want to understand how the consultations take place and on what basis each of the industries is assessed, you should consult the Scottish Assessors Association. I am not an assessor, but I understand that they consider the information available and what is most relevant to the nature of each industry. They then seek to reach agreement on a valuation basis. There is an element of science and an element of negotiation. I suspect that there comes a time when people

realise that they must reach agreement. Agreement with the industry has been reached on all the statutory instruments that the committee is considering today.

Donald Gorrie: I have two questions on the figures. My first point is rather nationalist. Our railways have increased in value, whereas those of the English and Welsh have decreased in value. The values may have been erroneously estimated at the time of privatisation, but the difference seems curious.

Secondly, we have previously been told by Jack McConnell and others that the average, overall increase in non-domestic rates is about 15 per cent. All the industries concerned have a lower increase. Is the burden therefore passing from some of the big industries to smaller companies?

14:15

Bill Howat: I could not add to your speculation on why the value of the railways has gone up or down. To some extent, it is relevant that some of the industries were previously under one regime and moved to another. There have been some significant swings. I can only suggest that members speak to the assessors about that.

As for the final uplift factor, the 15 per cent was our original estimate, which we made towards the end of last year. Our final figure is nearing 12.5 per cent. There is a lower average uplift for the formula-valued industries. That uplift is a clear figure, because the end of the road has been reached: if the committee approves these instruments today, we will be able to say conclusively that the uplift figure has been reached. We will not, however, be able to say what the total uplift figure is until, as was said earlier, all the appeals have come through. Our expectation is that, for the non-formula-valued industries, the factor will be between 12 per cent and 13 per cent.

Mr Gibson: I am curious, as is Donald Gorrie, about the fact that the rateable value for the railways has decreased by 24 per cent in England and has increased by 27.75 per cent in Scotland. I do not think that, in the relevant period, any of us has noticed any significant improvement over England in the quality of the railways. It is regrettable that Mr Howat cannot answer Donald's question. It is difficult for us to ask these questions if no one can give a distinct answer. Is there no one among the seven officials who can answer? It seems curious that there is such a marked difference between the rateable value of the railways in Scotland and in England, and indeed that there is an even more marked difference between the railways in Scotland and those in Wales.

Bill Howat: The answer to Mr Gibson's question is no, as far as the detail is concerned. I am happy to consult the assessors and provide a note on the figures.

One of my colleagues has just passed me a note to remind me that Donald Gorrie was absolutely right in saying that a large part of the explanation for these figures comes from the fact that more information has become available and that the nature of the apportionment in this revaluation has changed from the one in the revaluation five years ago. We can certainly provide the details for members.

Mr Gibson: How much was raised in non-domestic rates in 1999-2000? How much will be raised in 2000-01?

Bill Howat: Those figures are in a paper that we published. From memory—I cannot provide the precise figure—we are expecting to raise around £1.5 billion in the current year.

We have made our new calculation by uplifting the figure by the retail prices index—1.1 per cent—and by taking into account an estimated loss in appeal of 3.6 per cent. That is a total take, but allowances then have to be made for the various discounts and so on. We should make it clear that these are our estimates of what we think that we will get. If the economy performs well, the amount could be greater; if there is a downturn, it could be poorer.

Mr Gibson: Would I be right in saying that, between 1999-2000 and 2000-01, there is expected to be a differential of £200 million or so in the amount of money raised from non-domestic rates?

Bill Howat: I will check that. The figure is in a paper that we have published. One of my colleagues will help me to provide it in a moment.

Mr Gibson: We are talking about the actual figures that business will have to pay in addition this year. If the differential is £200 million, that will have to come from the business sector, will it not?

Bill Howat: If that is the estimated differential and the estimated tax take, yes.

Bristow Muldoon: I would like you to confirm that all the proposed rateable values in the seven statutory instruments have been agreed with the industries. Has there been any dispute with the industries over any of the instruments?

Bill Howat: None as of today. I would be telling a lie if I said that every industry is universally happy with the figures that have been agreed, but we have reached an agreement to which they are prepared to sign up. We will have further discussions, with the electricity industry in particular. As industries change, new regulatory

regimes are introduced; the process is continuous. I could have given you a straight yes in answer to your question, but it is important to understand that this is a snapshot; these are the valuations to which the industries are prepared to sign up. We will continue to review the matter.

With great apologies, I draw the attention of the committee to a technical issue. We have identified a small error on page 4 of the Electricity Lands (Rateable Values) (Scotland) Order 2000. The error has arisen because of difficulties of apportionment and was identified only this morning. To emphasise Bristow Muldoon's point, I can say that it was identified by Scottish Power. The figure of £53,080,000 in paragraph 8(1)(a) should read £52,870,000, which represents a decrease for Scottish Power of £210,000. There is a consequential change in paragraph 7(a): the figure of £73,110,000 has to be reduced by £210,000. We have consulted the clerks and the Parliamentary Bureau today. With our apologies, it is suggested that you should approve this order. We will undertake to bring forward as quickly as possible an amending regulation that could be taken with some of the other instruments that have to come forward.

The Convener: We will consider that matter when we take the order. If there are no more technical questions, I will now ask the Minister for Finance to tell us more about the orders.

The Minister for Finance (Mr Jack McConnell): Although I was not allowed to answer any technical questions, I hope that you will take the chance to ask my ministerial colleague, Mr McAveety, some questions on this interesting subject when he appears, as I am sure that he knows a lot about it. I have warned him that you might test him, which I suspect might be fun.

I wish to clarify that the estimates for next year's non-domestic rates total are based on the retail prices index increase of 1.1 per cent and not on an increase of £200 million. Over a longer period, the issue arises of the balancing out of non-domestic rates from one year to the next. That used to be taken as a burden by the Treasury—if we ran short, the Treasury would make up the difference, and if we made extra, the Treasury would take it back. There is now a Scottish budget, so the non-domestic rates pool will need to balance from year to year. The built-in increase from this year to next will be only 1.1 per cent, which represents between £15 million and £20 million, rather than £200 million. I hope that that is helpful.

The seven draft orders before the committee today relate to the revaluation of non-domestic rates, which is required by statute to take place across Great Britain every five years. Regular revaluations ensure that the rateable values of

properties do not get out of line over time and that they reflect current rental evidence. In Scotland, non-domestic rates provide about 21 per cent of local authority expenditure, which represents about £1.5 billion annually of a total of almost £7 billion. Non-domestic income is collected locally but the structure and parameters of the tax are set by central Government and the proceeds are pooled and distributed to local authorities as part of the central Government support that I announced on Wednesday.

The seven orders deal with types of properties and industries that do not easily lend themselves to valuation by the conventional method. Such properties belong to what are known as the prescribed industries. For the most part, they are utilities that were previously, or still are, in some form of public ownership.

There are also cross-border networks, including the electricity, gas, rail and water industries, as well as large ports. Apart from the Train Operating Companies (Rateable Values) (Scotland) Order, which has been made annually in recent years, the draft orders that are before the committee supersede those that were made at Westminster in 1995 at the time of the previous revaluation.

In Scotland, valuation for rating of non-domestic properties is carried out by council or joint board assessors. In England and Wales, the Valuation Office Agency performs the same function. The assessors are independent of central Government and local government and reach their decisions in accordance with applicable statute, case law and valuation practice.

All the draft orders have been subject to detailed discussion and consultation with the industries concerned and with appropriate national bodies. In Scotland, those discussions took place between the industry representatives, officials from the Scottish Executive and the Scottish assessors. The industry representatives approached the discussions realistically. As a result of the process, valuation figures were arrived at that are, for the most part, acceptable to the industries and to us. Similar discussions took place simultaneously in England and Wales, and cross-border contact with officials in the Department of the Environment, Transport and the Regions and the Valuation Office Agency was maintained.

Harmonisation of valuation treatment and practice, north and south of the border, is a key feature of the revaluation. Wherever possible, the valuations reflect that. Aggregate rateable values are apportioned among local authorities on the same basis as in previous revaluations. That does not mean that there was universal agreement, and I shall mention two areas in which there are still outstanding issues.

The docks and harbour operators, north and south of the border, remain opposed to proposed changes to the assessment of their rateable valuation. Lack of consensus in that area has meant that a draft docks and harbours order is still in preparation and will not be presented to the committee until early in the new financial year.

British Energy, which operates nuclear generation in Scotland, is also concerned about the valuation methodology that applies to its generating plants throughout Great Britain. However, agreement on the outcome in Scotland has been reached with the industry's representatives and draft electricity orders have been prepared for the committee to consider today. Given British Energy's objections to the approach to its valuation, officials will liaise with colleagues in England and Wales and will give further consideration to the concerns raised by British Energy following the revaluation. I am prepared to revisit the order and come back to the committee in the light of those discussions, or to consider rate relief if we decide to end prescription.

I shall pause after those general remarks to allow questions, before dealing briefly with the detail of the seven orders. I stress that, in approving the statutory instruments today, the committee will be setting the rateable values for the next five years and will provide stability and certainty for the industries concerned.

The Convener: I call Kenny Gibson to ask the first question. I should make it clear that these are not to be technical questions.

Mr Gibson: On non-domestic rates, are you considering allowing local authorities to keep the rates that they raise to make them more business-friendly? Are you considering adjusting the revenue support grant to allow for the differential in the amount of money that local authorities have under aggregate external finance? I am confused about the response to my earlier question on the increased amount of money coming through non-domestic rates. I understood that, under AEF, there was an increase of about £200 million. According to the figures that the Convention of Scottish Local Authorities published last week, the differential between the amount raised this financial year and next is about £223 million. Could you clarify that? Are you actively considering allowing local authorities to keep their business rates, even though the amount that they have to spend may not be adjusted?

Mr McConnell: I am happy to answer those two points, although neither of them has anything to do with the seven orders that are before the committee.

We made it clear that there should be a national system of non-domestic rates and that there should be a national non-domestic rate in Scotland. That position has been widely welcomed by business. It is now accepted by local authorities as well and we have no intention of changing that. We have agreed with the Convention of Scottish Local Authorities and business organisations that they might have discussions about pilot projects involving business improvement districts where the rate could be more flexible—parts of a local authority area where the money is used specifically to invest in that area in a way that might help business and the local community. Those discussions will take place this year.

The estimates for next year allow for an inflation-only increase in the total for non-domestic rates in Scotland. The amount of money that came in through non-domestic rates in this financial year is expected to be higher than the initial estimate, which is probably where those figures come from. The overall position on non-domestic rates is that we are totally responsible for that money here in Scotland. In pre-devolution days, if the non-domestic rates income in Scotland fell short over a financial year the Treasury picked up the tab. If the non-domestic rates income in Scotland was greater than expected, the Treasury kept the surplus. Now that we are responsible for our own budget, and solely responsible for non-domestic rates, we have to balance that from one year to the next. It is our intention to ensure that, over the course of three, four or five years, that balance is achieved. We will review the figures in the course of the next financial year to ensure that that is the case.

14:30

The Convener: I was lenient in allowing that question. I suspected that it had been asked before by another member of this committee, and that Jack McConnell had already answered it. I ask Gil Paterson to ensure that his question is in order and addresses the subordinate legislation issues that we are considering today.

Mr Paterson: I will need to be guided, although I think that it is within that scope. My question relates to communities and industry. Is there scope for an industry, or a group of industries, to begin to use the rates system to gain some assistance? Is there more armoury left in the locker with which to help industry?

The Convener: That question is not absolutely relevant to what we are here to discuss today. You may answer it if you want to, minister, but it is not relevant to the present discussion.

Mr McConnell: One point of clarification might be helpful. Last Wednesday, I was able to

announce a transitional relief scheme through the scale of increases that certain industries or companies might face throughout Scotland. That will apply to large industries as much as to small businesses. Those industries that appear in the paper that you have received today, which will face increases of more than 7.5 per cent in their likely rates bill for next year, will have the increase pegged to 7.5 per cent as a result of the transitional relief scheme. That rule will also apply to industries at the other end of the scale, which will receive decreases.

We are trying to accommodate changing economic patterns, and the whole evaluation system is designed to accommodate changing patterns of economic success. The purpose of having a five-yearly business rates revaluation process is to ensure that, where industries or commercial areas within local communities are either having difficulties or are experiencing high levels of commercial success, the valuation figures reflect that. People can either pay their share or be compensated for a downturn in commercial activity.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): I hope that this question is relevant, convener. Jack, when you mentioned two organisations—docks and harbours and one other—which had not signed up, it raised the issue of the element of negotiation that is involved. I do not suppose that there is any negotiation over small businesses or domestic rates. Will you explain the degree to which negotiation is required, why it is necessary, and—the bottom line—whether more money could have been taken for the public purse from these organisations, some of which make quite a bit of money from the public before the revaluation takes place?

Mr McConnell: I am satisfied that the valuations that we are agreeing today are good for the public purse. They will ensure a neutral effect: although some will go down and some will go up, across the piece the impact will be the same as the general revaluation and our income will hold steady.

The reason for having partially negotiated valuations is partly because of the size of the industries involved, and partly because they are so difficult to value by the conventional method due to the nature of the industries and the valuation of the assets. They are not commercial rented properties; for example, the orders that apply to the railways cover the railways part of the railway network and railway property, not the shops that might be found in a railway station, which are valued by the conventional method. Such areas are harder to define.

Furthermore, there is no right of appeal against these orders. When assessors value a small commercial business or business property in

Scotland by the conventional method, owners of those businesses and properties have the right of appeal. Obviously, many of those appeals are successful. However, after the committee agrees the orders today, they are final.

We have negotiated a settlement for the United Kingdom that takes account of regional differences, the current position of these industries and the assets that they have gained or lost since the previous valuation and that agrees a sum total that does not lose the public purse any money. By doing so, we remove the element of risk. We are talking about an awful lot of money, and introducing an independent system of evaluation with the right of appeal could lead to more uncertainty for the industries involved, which might damage job prospects. It could also lead to more uncertainty for us. If we started losing appeals of that size, we would clearly have difficulties with our income.

As a result, the proposed system suits both the public purse and the industries, although I should make it clear that the system is under review. In the past, there has been talk about moving to a more conventional system, and I would not want to rule out such an option five years from now. However, consistency and stability are the best things for the first five years of the Scottish Parliament and the Scottish Executive.

Donald Gorrie: The revaluation 2000 paper says:

"So far as the gas and railways are concerned, the approach employed was to arrive at a UK cumulo valuation and then apportion between Scotland, England and Wales."

If, in the next five years, the Scottish Parliament decided that it wanted a different system of local government finance that involved changes to non-domestic rates, would we have to leave the gas and rail industries alone because they are UK matters, or could they be unscrambled from that situation?

Mr McConnell: My team can correct me if I am wrong, but my assumption is that the overall valuation would still require some apportionment on a UK basis with an agreement of the Scottish total, followed by an apportionment within Scotland to the different properties owned by such companies.

However, if you are suggesting that, at that point, non-domestic rates might become a more localised decision, I should say that once the valuations are set, the local authorities would presumably keep the money that had been raised in their area. In other words, although the gas and rail industries could be unscrambled, there would still have to be a national picture of the valuation and an apportionment to the authorities concerned through some sensible formula that reflected the

amount of land, property or activity in their areas.

Mr Keith Harding (Mid Scotland and Fife) (Con): I want to return to the question about the total increase in uplift. Although I bow to your superior mathematical knowledge, if we examine the calculations that you have provided today, the industries involved will be paying an extra £10 million, which is more than half of the total uplift in Scotland. Will the rest of Scotland's businesses and industries provide only about £5 million?

Mr McConnell: I am not sure which total you mean.

Mr Harding: The increases in rateable value come to £23 million, minus the £3 million decrease for the water authorities, which brings the total to £20 million. With a rate of 50p in the pound—actually the rate is about 45p—that means roughly £10 million in increased rates for those industries.

Mr McConnell: That would not be my calculation.

Mr Harding: As an ex-mathematician, what would yours be?

Mr McConnell: The total amount of money that will be raised from the prescribed industries—which appears at the bottom of the paper—will be about £136.2 million.

Mr Harding: Yes, but we are not told how much was raised last year: that figure would have been about £125 million.

Mr McConnell: I do not think so. This year we will raise between £130 million and £136 million, as the increase in take from one year to the next is, as I said earlier, 1.1 per cent.

Mr Gibson: Under distribution alone, we are told that the increase will be from £167,375,000 to £180,913,000. That is an increase of £13.6 million.

Mr McConnell: Perhaps I should have made this a bit clearer. Those figures relate to rateable value rather than the rates that are paid. Mr Harding is making the point that, if the difference is multiplied by the business rate of 45.8p in the pound, that figure would be arrived at. However, that does not allow for the fact that the current business rate in Scotland is 49p in the pound. In the case of the electricity industry, for example, £180 million times 4p in the pound would have to be taken away before any increase could be considered.

Mr Harding: That would still amount to an increase of nearly £10 million for these industries alone.

Mr McConnell: I shall check that calculation during the debate and get back to you. That was

not my calculation before we came in.

Mr Gibson: I do not want to get too technical, but I am trying to make a political point. The difficulty with a lot of these figures is that they are not easily understandable. Take, for example, the Water Undertakings (Rateable Values) (Scotland) Order 2000. How are people supposed to understand these figures? Both you and I are graduates of Stirling; your degree is in mathematics, and mine is in economics. Even so, it is difficult to understand the figures on page 2, under paragraph 5(3). We are informed that

“the relevant adjusted volume of supply”

will be calculated in accordance with the formula $D + [1/3E \times 2/3F] + 1/2G + 1/6H + 1/3J + 5/6K$.

The Convener: Kenny, I must stop you for a moment. We do not know where you are reading from.

Mr Gibson: Page 2.

The Convener: Of the instrument?

Mr McConnell: There are seven orders. Which order are you reading from?

Mr Gibson: I read that out a moment ago. It is the Water Undertakings (Rateable Values) (Scotland) Order 2000. Sorry. I was perhaps reading a bit fast.

Mr McConnell: Convener, I suggested that I was stopping in the middle of my introductory comments to talk about the general position, before going through the seven orders. I think it would make more sense to go about it in that way.

Mr Gibson: I have a general point, minister. Do you have any plans to ensure that the calculations will be simplified the next time, so that ordinary people will be able to understand the way in which these figures are arrived at? They currently rely on very involved mathematical formulae, which 99.9 per cent of the population will not be able to understand. That is obviously a flaw.

The Convener: You cannot change the instrument, but perhaps an explanatory note could be provided in future, which would be helpful for people such as Kenny and me.

Mr McConnell: I am keen to ensure that the maximum information is available. I understand that, last year, these instruments took two minutes to process at Westminster. We have tried to provide more information for this committee today, to improve that situation, and I am keen for us to continue to increase the amount of information that is available.

The technical orders have to be technical in nature. They have to specify the formula and the outcome, give the industries certainty and deal with the negotiated agreement between the

assessors and the industries. Our job is to process them in legal terms. What we can do—not only in this forum, but in other ways—is answer questions and provide further information that will make them more understandable. However, I suspect that members of the public in Scotland would be keener to read about other local government finance issues than about some of this stuff.

14:45

The Convener: We will now move on. I understand that you have to finish your speech, minister.

Mr McConnell: I am checking Mr Harding's calculations. Despite the fact that he is not a maths teacher, I would like to pay him that much respect at least before we finish this afternoon.

There has been a change of format of the draft orders that relate to the electricity industry. At the 1995 revaluation, in addition to the orders dealing with independent generators and the aluminium manufacturers that are before us today, there were three other orders that dealt with generation, transmission and distribution of electricity by the three principal electricity companies. For the purposes of brevity and convenience, those orders have been combined into one order, the Electricity Lands (Rateable Values) (Scotland) Order 2000. The content of the draft order remains consistent with that in the orders that were made at the 1995 revaluation.

The draft BG Transco plc (Rateable Values) (Scotland) Order 2000 provides for that company's valuation for the financial years 2000 to 2005 and updates the provisions to reflect the position. Since the de-merger of British Gas in 1997, Transco has become the largest company within British Gas and is concerned with the transportation of gas.

The draft Railtrack plc (Rateable Values) (Scotland) Order 2000 provides for the rateable value of certain lands and heritages occupied by Railtrack for the financial year 2000-01 and subsequent financial years. Railtrack is in occupation of the Scottish network tracks and sidings, Waverley station in Edinburgh and Glasgow Central high level. The order provides for the Scottish share of the UK total.

The draft Train Operating Companies (Rateable Values) (Scotland) Order provides for the rateable values of lands and heritages occupied by train operators for the financial year 1999-2000. Since 1998, retrospective orders have been made annually in order that changes taking place in the rail industry could be accommodated. However, given the relative stability of conditions in Scotland, I think it better to bring the train operators into line with the other industries by

making longer-term orders.

Early in the new financial year, I will bring forward a further draft order dealing with train operators, which will be put before the committee. That order will relate to the rateable values for the years 2000 to 2005 and is intended to be the last of the retrospective orders.

The draft Water Undertakings (Rateable Values) (Scotland) Order 2000 provides for the rateable value of properties occupied by Scotland's three water authorities for the next five years. In calculating the rateable values for the water industry, the discussions have taken into account the fact that the water authorities have inherited old assets and substructure that will require substantial investment. For that reason, the total valuation figures for the three water authorities is lower for 2000 than the equivalent figures arising from the 1995 revaluation. That means that we have taken account of the increased expenditure in the authorities on investment, which will be of benefit to those who pay water charges across Scotland.

I emphasise that the orders presented to the committee today will provide stability and certainty for the industries concerned for the next five years, and for us in regard to income. That will enable the companies to continue their financial planning in a stable environment and will allow us to budget for non-domestic rates properly. I commend the orders to the committee.

Motions agreed to.

That the Local Government Committee in consideration of The Electricity Lands (Rateable Values) (Scotland) Order 2000 recommends that the Order be approved.

That the Local Government Committee in consideration of The BG Transco plc (Rateable Values) (Scotland) Order 2000 recommends that the Order be approved.

That the Local Government Committee in consideration of The Railtrack plc (Rateable Values) (Scotland) Order 2000 recommends that the Order be approved.

That the Local Government Committee in consideration of The Electricity Generators (Aluminium) (Rateable Values) (Scotland) Order 2000 recommends that the Order be approved.

That the Local Government Committee in consideration of The Electricity Generators (Rateable Values) (Scotland) Order 2000 recommends that the Order be approved.

That the Local Government Committee in consideration of The Water Undertakings (Rateable Values) (Scotland) Order 2000 recommends that the Order be approved.

That the Local Government Committee in consideration of The Train Operating Companies (Rateable Values) (Scotland) Order 2000 recommends that the Order be approved.—[*Mr McConnell.*]

The Convener: Minister, do you wish to answer Mr Harding's point?

Mr McConnell: We are having some problems

with the calculator. I am happy to undertake to provide the committee with a written explanation of the calculations.

The Convener: Are members happy with that? Keith Harding cannot believe that you cannot work it out, minister.

Mr Harding: It is quite straightforward.

The Convener: It is more complex than you think, Keith.

Minister, thank you for your time.

Political Parties, Elections and Referendums Bill

The Convener: We move on to the next item, which is the Political Parties, Elections and Referendums Bill. The Deputy Minister for Local Government is here with Ted Davison, the head of the Scottish Executive local government division 2, who has attended this committee before. I do not believe that Malcolm Lauder from the Scottish Executive's civil law division, who is also here, has attended this committee before. I welcome them to the meeting.

I apologise for running over time. There was a dispute as to whether it was Jack McConnell or Keith Harding who could not work out the figures, and they could not find a calculator, which means that we are a bit late.

We are being asked to approve the proposals contained in Frank McAveety's memorandum, on which we can ask questions. We have discussed the memorandum and at the end of this item, I will ask members whether they agree to the proposals. The motion will then be taken without debate in the Parliament on Thursday.

The Deputy Minister for Local Government (Mr Frank McAveety): Thank you, convener, for giving me the opportunity of speaking to the memorandum. I believe that members have a copy of it.

I thank the Minister for Finance for his earlier complimentary remarks. I heard them from outside the chamber. I will not indicate how I responded to them; it is sufficient to say that I welcome Jack McConnell's contribution.

The memorandum covers most of the points on the general background to the Political Parties, Elections and Referendums Bill, which is a Westminster bill. The memorandum also explains the amendments that we are asking the committee to consider and approve. We believe that they affect the devolved area of local government elections.

The bill is the United Kingdom Government's response to the Neill committee's report on the funding of political parties in the UK. It has received the support of all political parties.

The bill deals with similar matters to those covered in the voluntary agreement signed by all the political parties in Scotland just prior to the 1999 Scottish Parliament elections. For the first time, political parties will be subject to controls on how they are funded and the money that they spend during election campaigns and at referendums.

In order to monitor those arrangements, the bill will create an independent electoral commission. The functions of the commission will include reporting on particular elections and referendums, the review of electoral law, the provision of guidance in relation to party political broadcasts, and promoting general understanding of the electoral and political systems.

The bill also provides for the transfer, in due course, to the electoral commission of the functions of the four Parliamentary boundary commissions and of the bodies that determine local government boundaries in England and Wales, that is, the Local Government Commission for England and the Local Government Boundary Commission for Wales. These transfers will not take place immediately. In the case of the parliamentary boundary commissions, the transfer will not take place until after the next review, which will, I think, concentrate many minds. No date has been set for the transfer of local government boundary matters, but that is unlikely to happen before the transfer of any parliamentary boundary commission functions. We are looking at dates beyond 2006.

We believe that the bill should extend into the devolved area of Scottish local government elections. The time might come a few years hence when, with the electoral commission doing the work for all parliamentary elections and for local elections in England and Wales, the Scottish Parliament and Executive of the day might decide that it would make sense for that same commission to take over the review of Scottish local government boundaries as well. For that to be able to happen, we have to make provision in the present bill, because at the moment the matter is reserved. We have not formed any views about whether that would be desirable. All we are saying is that the power should be there for the future. Developments over the coming period will determine the time scales for that.

In the shorter term, people have been concerned about whether there will be an impact on local government legislation and the boundary commission. Before making any recommendations, we will await the report of the Kerley commission. The wider post-McIntosh agenda needs to be considered by this committee and the Parliament. We shall not be taking any view on the Local Government Boundary Commission for Scotland until we have the Kerley report, but transfer of the commission's functions to a new electoral commission will not be among the options for consideration in the short term. All we are putting forward now is a contingency provision for a future Scottish Parliament and Executive.

That is our main proposal. There are three other areas that we believe should be considered today: first, the monitoring of any enactments relating to candidates' expenses; secondly, the provision of advice and assistance to returning officers; and thirdly, the promotion of public awareness of the local government electoral system, whether it be the present one or a changed system in the future.

The final matter that we wish to include in the bill will be the amendment of the legislation covering the conduct of local government elections in Scotland in relation to section 75 of the Representation of the People Act 1983. Interestingly, that section prevents anyone except the candidate and the election agent from incurring expenses with a view to promoting or procuring the election of a candidate unless the expenditure is less than £5 in aggregate. The European Court of Human Rights has ruled that section 75 is in breach of the European convention on human rights in that it acts as a total barrier to someone publishing information with a view to influencing voters and in that the restrictions are disproportionate to the aim of achieving equality between candidates at an election. We therefore seek to amend section 75 in respect of local government elections in Scotland.

The Home Secretary intends to use his bill to address the ECHR's judgment in relation to parliamentary elections and local government elections in England and Wales. Although no local elections are due in Scotland until 2002, there remains the possibility of a by-election at any time. The Home Secretary's bill provides us with a convenient early opportunity to address the ECHR ruling. In line with the Home Secretary's proposals, we would like to amend section 75 to set the limit for local government elections at £50 plus 5p per elector. That should address the considerations and criteria of the ECHR while maintaining equality among candidates.

I hope that the committee will agree that our proposals are a sensible and practical way forward. They will keep open the option of using the electoral commission if and when we decide to consider these matters in future. Amending section 75 of the Representation of the People Act 1983 will allow the Parliament to meet its obligations under the European convention on human rights.

The Convener: I was interested in what you said about section 75. Who would be the "other" person mentioned in paragraph 9 of your memorandum? Would that be an independent person?

Malcolm Lauder (Scottish Executive Civil Law Division): It would be any person other than the candidate and the election agent—a third party—who had an interest and who wanted to

intimate to the electors in that ward or constituency certain information about the candidates.

Bristow Muldoon: I understand the need to amend section 75 if there has been a European Court of Human Rights ruling against it. However, it seems possible, or even highly probable, that people would be able to drive a coach and horses through the limit on election expenses that is set for the candidates. Could someone have hundreds of friends distribute literature on a third-party basis, which would, in effect, mean that there was no limit on their expenditure?

Malcolm Lauder: As the legislation stands, yes. It would be possible to get 500 individuals to spend up to the limit, which at the moment is £5 and under this proposal would be £50 plus 5p per elector. It would be down to the courts to determine whether they were dealing with 500 individuals or with a concerted campaign designed to prevent the election of an individual.

The Political Parties, Elections and Referendums Bill that is before the Westminster Parliament introduces for the first time major controls on third-party expenditure in the UK. Section 75 of the Representation of the People Act 1983 refers only to expenditure incurred in promoting or procuring the election of a candidate, who would, therefore, have to be named. The Political Parties, Elections and Referendums Bill introduces the concept of limits on overall third-party expenditure. If a third party said that they wished to support the Labour party or the Conservative party, they would be limited in what they could spend. That is not covered by section 75 of the 1983 act. However, it would be for the courts to determine whether 500 individuals spending up to the limit set in section 75 constituted third-party expenditure.

15:00

The Convener: As a matter of curiosity, will the Westminster bill be passed before the London mayoral election, in which Ken Livingstone is standing? It seems to me that that would be a good idea.

Malcolm Lauder: I doubt it very much.

The Convener: It was not a serious question.

Mr McAveety: We could encourage emergency legislation.

Mr Paterson: Does the bill cover affiliated bodies and central funding for campaigns?

Malcolm Lauder: The bill contains provisions that deal with affiliated bodies. There will be a set limit on what parties can spend in the run-up to each election. Anybody else who decides to spend money will have to register with the electoral

commission before the election. When they do that, a limit will be set on what they can spend. If, for example, a trade union decided that it wanted to spend a significant amount of money on supporting one party, it would need to register with the electoral commission and a limit would be placed on what it could spend.

Mr Harding: Can you confirm that the education to which clause 11 of the bill refers is to explain a voting system that has already been approved by Parliament, rather than to promote a type of voting preferred by a political party or parties?

Mr McAveety: It is about informing the public about the system, once that system has been agreed. It is not about advocating anything.

Mr Harding: So a party could not use the clause to promote a particular line?

Mr McAveety: No.

Donald Gorrie: I refer to paragraph 5 of the memorandum, on the Local Government Boundary Commission for Scotland. Most of us feel that anything would be an improvement on that commission. Presumably, the electoral commission could operate locally if a future Scottish Parliament gave it the power to do so, so that the exercise would not simply be a case of some guys in London drawing lines on a map.

Malcolm Lauder: The bill provides for the electoral commission to set up four electoral boundary committees, one for each of the constituent parts of the UK. Under the electoral commission, there will be an electoral boundary committee for Scotland. One of the commissioners will be chair of that committee and two deputy commissioners will be appointed specifically for the purpose of conducting boundary reviews. I presume that the electoral commission would allot the review of local government boundaries in Scotland to that committee, should the Parliament decide at some point to transfer that function.

Ted Davison (Scottish Executive Local Government Division): If the function were transferred, the electoral commission would be acting under legislation passed by the Scottish Parliament.

Donald Gorrie: I will revert to section 75 of the Representation of the People Act 1983, about which a number of us are concerned. The European Court of Human Rights said that if some citizen knows dark secrets about a candidate, he or she should be able to publish that in the public interest and spend some money doing so. As other members have said, a number of different groups could put forward their own literature saying why a candidate or party was the best. Depending on the size of the ward, they would be able to spend £250 each, so if there were half a

dozen of them there could be a significant disproportion in the money spent in the election. The minister has suggested that he is trying to maintain parity. Will he explain that further?

Mr McAveety: This was in response to where the ECHR had placed us. I recognise this as a point that I raised this morning with colleagues—Malcolm Lauder will elaborate on it—which is that, if a team of folk came together to quadruple the number of people targeting an individual, that could lead to an effective campaign against the individual. I think that there are some safeguards, which Malcolm will mention.

Malcolm Lauder: As I tried to explain, the safeguards against joint campaigns are provided for not under section 75 of the 1983 act—Donald Gorrie was correct about that—but under the Political Parties, Elections And Referendums Bill. The bill introduces for the first time third-party expenditure as a statutory concept. If a situation such as Donald Gorrie anticipated arises, other candidates could challenge the expenditure through the courts on the ground that that expenditure came about not because of 25 individuals spending their limit to publish information about their candidates, but through a third-party campaign, which should have fallen under the limits set by the bill. It would be for the courts to determine whether that was the case.

I will correct one point. The section 75 expenditure limit is not all about publishing dark secrets about other candidates. The European Court of Human Rights decision came about after the 1992 general election, in response to a prosecution against Mrs Bowman, a representative of the Society for the Protection of Unborn Children who wanted to publish information on candidates' views on abortion. She was charged with breaching the section 75 limit but the prosecution failed because the European Court of Human Rights decided that the limit contravened the European convention on human rights. This is not necessarily about candidates' dark secrets; it could simply be about informing electors where candidates or parties stood on policy issues.

Johann Lamont (Glasgow Pollok) (Lab): All the powers that we transferred would be subject to the scrutiny of the Scottish Parliament before they were exercised.

One of the concerns about the legislation is that we would be leaving it to the courts to make decisions on issues that are significant but largely about perception. At the moment, a union can advocate a programme and hope that people will draw the conclusion that a party also has that programme. I understand what Malcolm Lauder is saying about safeguards, but I think that those safeguards might operate more easily in relation to

a political party, a trade union or another grouping. They might not operate in a small community where people of some standing in the area spent money advocating an independent candidate. It would be difficult to argue that that was a concerted effort, because no political party would be involved—those people would be individual citizens exercising their rights. However, if people did that in relation to a candidate who was standing under a party banner, it would be easier to say that that was more than mere coincidence.

Do you think that that could introduce the element of unfairness that has been alluded to? It would be difficult for a court to say that an individual who had no party, trade union or group affiliation was doing anything other than exercising their right to promote a candidate, particularly if that candidate had no party affiliation. Such circumstances would, however, be significant in local government elections.

Mr McAveety: Malcolm Lauder will touch on the framework. Individuals have the right to raise issues about candidates in their localities. The figure that is mentioned in paragraph 9 of my memorandum is a reasonable sum that will ensure that an individual will not be punitively dealt with in terms of the scale of the resources that are deployed against them as a candidate. Depending on the popularity of a candidate, a stream of folk might queue up to offer to fund from their own pockets £150 or £200 of expenditure. I have not yet met an elected member in the areas that I know who reached that level of popularity, but perhaps others have. The issue is whether it is possible to intervene at the right stage.

Malcolm will respond to what Johann Lamont said about independent candidates—I have not given much thought to that. We must get the balance right and people must be able to say why they are not attracted to a candidate, no matter how uncomfortable that might be for the candidate.

Malcolm Lauder: It is important to say that, in terms of electoral legislation, all candidates are in effect independent. Electoral legislation does not recognise political parties, other than in the recent elections to the Scottish Parliament and the European Parliament. The premise behind the Representation of the People Act 1983 is that candidates are individuals. They might represent political parties, but they are treated as individuals.

The Political Parties, Elections and Referendums Bill recognises the fact that the vast majority of spending in elections in the UK is done by political parties and it introduces limits to what the parties can spend on elections. There must also be some control over what individuals spend in supporting candidates or parties at elections. The limits would otherwise be easily surmountable

by channelling funds through a third party. That is why there is a set of limits on third-party expenditure. Whether those limits sit comfortably with independent candidates remains to be seen.

It will be for the electoral commission—when it is established—to monitor how the arrangements in the bill operate in practice. Section 75 deals with individual candidates; it allows for people to support local independent candidates if they so wish, within limits that will not undermine the general principle that all candidates should be treated fairly and equally.

Johann Lamont: I am not suggesting that there should be a system that does not offer the opportunity for people to comment on candidates. I am concerned that the way in which that is done might discriminate against those who organise themselves into political parties or visible organisations. It is easy to prove that there is a theme running through a series of statements from individuals when they are all members of the same union and their material is remarkably similar. In the case of a more randomly organised group that, nevertheless, has its own political view, it would be more difficult to establish whether people are abusing the funding system.

The system protects candidates who are not members of political parties. I think that it is fair that there should be a cap. People should not be able to benefit from the fact that there is a huge amount of external money that can be fed through a local organisation. However, it seems that the formula would allow people with a common interest to come together. The courts would find it much more difficult to deal with that than if the interest group was a political party, a trade union or some other big organisation.

15:15

Malcolm Lauder: I accept that it is more difficult to prove that there has been a concerted campaign by a group of independent individuals than by a group of individuals within an organisation. I cannot argue with that. Ultimately, it will be for the courts to determine and for the prosecuting authorities to investigate whether that has happened.

If 20 leaflets promoting a candidate suddenly appear in an electoral ward, and there are suspicions that they may have been produced by a concerted campaign, the appropriate investigations would have to be made. I do not see how one could set limits and then set different criteria for adhering to those limits for different types of candidate. The same limit, with proper resources for investigating breaches, would have to apply. That would be one of the functions of the electoral commission when it is up and running, although not necessarily for local government

elections. We are also looking to take an enabling power over the monitoring of local government expenses, which are not monitored at the moment.

Bristow Muldoon: Still on section 75, action can be taken against a candidate or agent who authorises expenditure that goes beyond allowable election expenses, and the election agent could be liable to prosecution if he or she has knowingly allowed that to happen. What would happen if an election agent spent within the limit and another person spent further money in support of the candidate? It would be difficult to prove that that individual was working in concert with the agent. I recognise that, in theory, it could be said that the election agent had authorised the expenditure. In practice, however, it would be difficult to prove a link between the election agent and an individual who was spending money in that way. Could the legislation tackle that? The mere appearance of a leaflet would not prove that the election agent had authorised it.

Malcolm Lauder: You are correct. That would be difficult to determine, and there is nothing in the legislation to prevent somebody from subverting the system in the manner that you have described.

Bristow Muldoon: One could not buy a lot of leaflets for £5, but one could for the new limit of £50 plus 0.5p per elector.

Malcolm Lauder: That is right. The European Court of Human Rights did not determine that section 75 itself was incompatible with the convention. It determined that the £5 limit acted as a barrier to anyone expressing their right to publish information on the candidates. The general aim of section 75 to provide some balance between candidates was a legitimate aim according to the European Court of Human Rights. We have not considered completely redrafting section 75 to deal with the kind of position that has been described, and neither has the Home Office in its study of parliamentary and local government elections in England and Wales.

I am not sure how to get round the problem. If there were two separate limits, there would always be a need to connect the two to prove that a breach had occurred. There is a limit on what a candidate and his agent can spend to promote their candidacy. There is a separate limit on what a third party can spend in influencing voters on how to vote for the candidates. While those two limits are in place, it will always be difficult to determine whether somebody has tried to breach the rules by using the second limit. I do not know how legislation could tighten that up. It is not something that has yet been considered.

Mr Paterson: Minister, I draw your attention to section 6 of your memo, which deals with candidates' expenses at local government

elections. There may be a problem in the drafting. The paragraph contains a health warning, which also appears in some of the other paragraphs. We are told that the provisions will be

"subject to the control of the Scottish Parliament".

Paragraph 6 goes on to say that

"it will be for the Scottish Ministers to decide whether or not to introduce monitoring arrangements for local government elections in Scotland".

Should not the health warning appear after that, too?

Mr McAveety: Yes.

Mr Paterson: Thank you. That can be changed, then.

The Convener: Okay, we have had a good bash at that. Is the committee agreed on the proposals in the minister's memorandum?

Members indicated agreement.

Mr McAveety: I would like to put on record my thanks to Malcolm Lauder for fielding the hard, technical questions that Jack McConnell said that I should have fielded.

The Convener: Yes, that has been noted.

Mr Paterson: You might want to ensure that he is with you all the time.

Mr McAveety: Absolutely.

The Convener: Thank you.

Ethical Standards in Public Life etc (Scotland) Bill: Stage 1

The Convener: We now move to discussion of the Ethical Standards in Public Life etc (Scotland) Bill. We will take evidence from the Scottish Council for Single Homeless, after which we may take a comfort break before moving on to deal with the petitions. There is coffee in the lounge, but I ask members not to take a long break—the longer the committee takes for a comfort break, the longer we will be here.

I apologise for keeping our witnesses waiting—the ministers do not know when to stop talking. We have before us today representatives of the Scottish Council for Single Homeless. Robert Aldridge is the director and John Dickie is the head of the youth housing unit. We ask you to say a few words before I open up the discussion for questions from the committee.

Robert Aldridge (Scottish Council for Single Homeless): Thanks very much for providing us with the opportunity to give evidence. I would like to concentrate, unsurprisingly, on section 2A of the Local Government Act 1986, the area in which the Scottish Council for Single Homeless has most interest. In particular, I would like to address subsection (1)(a), which deals with services that are provided directly or funded by local authorities in the context of the promotion of homosexuality. In our view, the section has both direct and indirect effects on the homelessness of gay men and lesbians. I will concentrate on four areas in which the section has an effect.

The first issue is that gay men and lesbians are at an increased risk of homelessness. From the limited research that has been carried out—the fact that the area is under-researched speaks volumes—we know that a high proportion of gay men and lesbians who were interviewed in various social surveys have experienced homelessness, and that their sexuality has contributed to that.

Why are they particularly at risk? There are three main factors that lead to the risk of homelessness. First, some lesbians and gay men are harassed both in and out of their homes, by neighbours or others. Secondly, young people are sometimes thrown out by their parents when their sexuality becomes known. Thirdly, some people lose their homes through pressure from those with whom they share accommodation. In our view, those situations result indirectly from the climate of discrimination and prejudice to which section 2A is a contributory factor. This is an issue that local authorities must deal with openly.

The second issue concerns what happens once someone becomes homeless. Research shows

that gay men and lesbians perceive that they will not get support from their landlord or housing provider because of their sexuality. They feel that if they have to explain that they became homeless because of their sexuality, they will not get a sympathetic hearing. As a result, many hide their sexuality. Recent research by the Scottish Federation of Housing Associations shows that 50 per cent of the gay men and lesbians whom it interviewed felt that they had to conceal their sexuality in order to keep their house. There is a perception that there is, at best, apathy among housing providers towards dealing with problems that are faced by gay men and lesbians, particularly towards providing appropriate housing and dealing with harassment due to sexuality. It is unclear to what extent that is a direct result of not wishing to appear to promote homosexuality, and how much it is simply part of the general climate that gay men and lesbians endure.

I have mentioned the general social climate, which is the third issue that I want to raise. We believe that the section helps to engender an atmosphere that reinforces prejudice and discrimination and that leads gay men and lesbians to hide their sexuality when they are at risk. The sense that their sexuality is unacceptable leaves them at greater risk and more vulnerable. Often they neither receive support from their family and friends nor feel that they will receive support from the statutory agencies.

Finally, the section has an impact on those who provide support services to homeless people. Because people do not know what the section means, they err on the side of caution. Let us take the example of a young homosexual homeless man who, as part of a project that is being run by a local authority, confides in a counsellor that he is homosexual. If that adviser advises the young person that many people are gay, that that is normal and that many gay people find happy, settled relationships, is he promoting homosexuality? Who knows? If the counsellor helps the young person to come out—to accept that he is homosexual and to have pride in his homosexuality—is he promoting homosexuality by doing that? The fact is, we do not know. From the anecdotal evidence that we have received, the effect of the legislation appears to be that people err very much on the side of caution, because they feel that the section is a sword of Damocles hanging over the way in which they deal with such matters.

Together, the four issues that I have outlined lead to an increased risk of homelessness for gay men and lesbians and a decreased ability for services to respond effectively to their needs. In effect, section 28 delivers a double whammy: first, it reinforces the prejudice and fear that lead friends and family to reject and isolate young gay

people; and, secondly, it leaves services funded by local authorities unclear about what support they can provide.

The Convener: John, do you wish to add anything at this stage?

John Dickie (Scottish Council for Single Homeless): No, Robert has covered what I wanted to say.

Mr Gibson: Has there been a demonstrable increase in the proportion of gays and lesbians who are homeless since the Local Government Act 1988 was introduced?

Robert Aldridge: It is difficult to tell, as this is a very unresearched area. All that we know is that the recent research that has been carried out showed a higher incidence of homelessness among the young gay men and lesbians who were interviewed than we would have expected.

Mr Gibson: Do you have a feel as to whether this is a historical problem or one that has got worse since the act was introduced?

Robert Aldridge: As far as I am aware, no research was carried out into the problem before the act was introduced, which makes it difficult to take a comparative view.

Mr Harding: If the existing legislation is repealed, do you feel that other safeguards should be introduced to reassure parents?

Robert Aldridge: I do not see what additional safeguards are required when we are talking about housing provision and projects that are designed to help young homeless people. We can rely on the professionalism of those who provide counselling and advice services or services in emergency hostels to deal appropriately with young people. It is important that service providers have the freedom to assess the young person's needs and to deal with those needs appropriately and in accordance with their professional judgment. I do not think that there is any danger of people promoting homosexuality—I do not understand what that term means.

Mr Harding: But that applies to you at present. The legislation as it stands relates to schools and children at school—not to housing organisations such as yours.

Robert Aldridge: The legislation as it stands is in two parts—I was not directing my remarks at the part that deals with promoting homosexuality in schools. The other part—section 2A(1)(a)—says that a local authority shall not

“intentionally promote homosexuality or publish material with the intention of promoting homosexuality”.

In our view, that relates to services that are funded, or partly funded, by local authorities, some

of which are for homeless young people or young people at risk.

Donald Gorrie: Can you give us a flavour of your network, so that we can evaluate the validity of your case? Some people on the other side of the argument might suggest that you are a small bunch of do-gooders saying your piece. I know that the research is not scientific—it is a rather chaotic area—but it would be useful to know whether you represent widely held views. Whom do you represent?

15:30

Robert Aldridge: The SCSH is the national membership organisation for individuals and organisations who provide services to homeless people. Our membership includes a wide range of organisations and individuals, such as most local authorities, a large number of housing associations, a large number of voluntary organisations that provide a range of services to homeless people, and interested individuals and professionals. Our members requested us to raise the issue of section 2A as a priority, because they believe that it is important that the section is repealed in order to enable them to deliver their services to young people without that sword of Damocles hanging over their heads.

Johann Lamont: I wish to ask a slightly broader question about homeless young people. We are conscious that the debate has shifted slightly away from a discussion about the promotion of homosexuality in schools to the consequences of not actively promoting marriage.

During evidence taken by the Equal Opportunities Committee, the argument was put that young people are more likely to become homeless if they come from families that are not traditional, married families. One figure quoted to the Equal Opportunities Committee is that only 2 per cent of young homeless people come from families where the husband and wife live together as a family. What do you view as the common features of young people who become homeless? Are they more likely to become homeless if they are brought up by same-sex couples or if their parents never married?

Robert Aldridge: The most significant features of young homeless people are disruption in their family life and lack of support. A large proportion have a history of being in local authority care—it has been well documented that around 39 to 40 per cent of all young people who approach services because they are homeless have a history of local authority care. Therefore, it is quite correct to say that those who have come from a less traditional family background, if you like, are likely to end up homeless. However, that does not

mean that those who come from a traditional family background will not end up homeless. A range of people end up homeless.

Johann Lamont: If you define a less traditional background as families that are disrupted.

Robert Aldridge: People are taken into local authority care for a number of reasons. We can go through them. Research shows that where a step-parent is involved, there seems to be a higher risk of people becoming homeless. The step-parent is not necessarily at fault—the cause is the disruption in family life. There is a range of family types in Scotland and people are emerging from those—we must deal with reality rather than the ideal situation.

John Dickie: A concern is that a focus on the idea of a particular family relationship and its structure overlooks what can go on in family relationships. A significant factor among young homeless people is the amount of abuse that has gone on in their life beforehand. That can happen in traditional family relationships. One of our concerns is to avoid the risk of undermining even further the young person who has had that kind of experience by focusing on the structure of their family rather than the experience of what the family was like; whatever the family structure, it is what goes on in it that is important and leads to people becoming homeless.

Johann Lamont: Would it be reasonable to say that abuse, rather than the sexuality of the abuser, is the significant factor?

John Dickie: Absolutely.

Robert Aldridge: I do not think that there is any evidence to show that same-sex partners are a greater risk factor in leading to homelessness than partners of different sex.

Colin Campbell (West of Scotland) (SNP): I note from your submission that you reckon that 20 per cent of the people who are homeless experience homelessness because of other people's reaction to their sexuality. We are discussing section 2A today, but its repeal is not going to change that. In the context of your experience, what else can change attitudes?

Robert Aldridge: It will be a long, slow process because there is an attitude in Scotland that discriminates and creates prejudice against gay men and lesbians. When people have a number of other problems in their lives and are dealing with their homosexuality, we need to make it as easy as possible for them to deal with that. This must go right through our institutions—local authorities must ensure that they are welcoming to gay men and lesbians and we must ensure that we value gay men and lesbians as equals in society. It is as simple as that, but it will be a long process before

we reach that point.

John Dickie: The clause reinforces the fear and prejudice that lead to young gay men and women being made to leave their home or being harassed out of accommodation when they find it. It creates the social climate that encourages that to happen. Its repeal is a step towards reducing that possibility rather than the answer.

Mr Gibson: I am interested in how people's sexuality causes them to be homeless. I am impressed by a lot of the information that is in your submission to the committee. I realise that you cannot put a precise figure on it, but can you give a rough estimate of what proportion of homeless people are gay or lesbian?

John Dickie: Homeless services do not monitor people's sexuality. However, we have evidence that is based on our members' experience and on what services that work with young homeless people say. The feeling is that there is a disproportionate number of young gay men and women among the homeless population. I spent five years working directly with a local charity that worked with young homeless people, and I was struck by the number of young gay men and women who had become homeless because of their sexuality. The reaction that their sexuality evoked in private rented housing, shared housing or hostel accommodation also made it more difficult for them to establish themselves in new homes.

Robert Aldridge: There is a kind of vicious circle here. Because people feel reluctant to declare their sexuality, it will be under-recorded. That makes it difficult for us to measure how great the proportion of homeless people who are homosexual men and lesbians is. The only real evidence that we have comes from the surveys that have been carried out among gay men and lesbians. They show that a very high proportion of them have experienced homelessness. That leads us to suspect—we cannot say more than that—that a disproportionately high number of gay men and lesbians become homeless.

Mr Gibson: I follow the logic of your argument. This is a chicken-and-egg situation. Obviously, people do not want to announce that they are gay because they would be discriminated against, but from our perspective it would be interesting to know whether homelessness is two or three times higher among gay men and lesbians than in the background population, as that would help us assess the level of discrimination they face and how it impacts on them.

John Dickie: Recent research in Glasgow among gays and lesbians of all ages found that 34 per cent had experienced homelessness. That is higher than the figure that would emerge from a

survey of a cross-section of the population.

Mr Gibson: What would the figure be for heterosexuals or people who have not declared their sexuality?

Robert Aldridge: Last year, about 45,000 people applied to local authorities in Scotland for help because they were homeless—out of about 2 million households. The 34 per cent among gays and lesbians suggests that a far higher proportion of them have experienced homelessness than is the case among the population at large.

Mr McMahon: I want to ask you about the Scottish Executive's new proposals, which put the onus on local authorities to have regard to the welfare and development of young people in their charge. Do you believe that those proposals will benefit your work, or do you take a neutral stance on them?

Robert Aldridge: I was a little confused about the meaning of "stable family life" in the proposed new section. Everybody is in favour of people having a stable family life. I hope that we will be clear about what that means. If we are replacing one section that is vague and difficult to understand with another that is vague and difficult to understand, we will face similar problems of interpretation.

We welcome the promotion of the welfare of children through legislation. It is important to recognise that, for many young people, homelessness does not start at age 16; many have a history of running away from home at a much earlier age. It is important that any services that are provided should take account of the fact that homelessness can start much earlier than 16, and that sexuality may have something to do with it. We have to ensure that there are services that deal with people's sexuality no matter what age they are.

Colin Campbell: What do you understand by "stable family life", which is what the Executive suggests should be written into SCSH's obligations?

Robert Aldridge: I understand it to be a very inclusive term that refers to the diversity of family arrangements in Scotland and incorporates same-sex relationships, single parent relationships and other relationships to deal with the world as it is, not necessarily as we hope it to be. I hope that that is what the Executive means by the term.

The Convener: As there are no other questions, I thank our witnesses for attending the meeting. This has been a very interesting session. I again apologise for being late.

15:46

Meeting adjourned.

15:49

On resuming—

The Convener: We now have with us, from the Stonewall Youth Project, Jamie Rennie and Anne Patrizio—is that correct?

Anne Patrizio (Parents Enquiry (Scotland)): Yes.

The Convener: I apologise for keeping you waiting. People took much longer than we anticipated. You may say a few words to us, by way of introduction, and then I shall open the discussion for questions.

Jamie Rennie (Stonewall Youth Project): Thank you for inviting us to attend the meeting today. I would like to introduce myself and my colleague before we present our evidence and answer your questions.

My name is Jamie Rennie and I am the manager of the Stonewall Youth Project, a unique example in Scotland of a service-providing agency that deals specifically with the needs of lesbian, gay, bisexual and transgender young people. The project works with hundreds of young people each year through its phone line, group work and face-to-face support services. It is also a lead member of the Lothian Association of Youth Clubs and currently holds the chair of that organisation.

My colleague, Anne Patrizio, is the organiser of Parents Enquiry (Scotland)—a separate organisation that provides support to parents of LGBT young people through a network of volunteers, all of whom are parents whose children are gay. Parents Enquiry (Scotland) is a wholly voluntary organisation that is run from parents' homes. Anne can say a few words about that organisation.

Anne Patrizio: About 30 parents throughout the UK are involved—four of us in Scotland—and we use our own phones. People can phone us at any time. Parents phone us when they are very distressed and have no idea where to go for information. We befriend them, sometimes for several years, and help them through the difficulty of finding out that they have a gay, lesbian or transgender child.

Jamie Rennie: As you would expect, we would like to focus on the aspects of the bill that are concerned with section 28 of the Local Government Act 1988.

In our submission to the committee, we have quoted young people and their teachers quite a lot to illustrate how young gay people and the issues

that concern them are dealt with in schools and the councils that oversee those schools. The submission does not contain the research and statistical data that demonstrate much of the trauma that many young gay people go through on their journey into adulthood.

I would like to make four points concerning that research. Recently, three independent academic surveys took place in Edinburgh. They showed that 60 per cent of gay people say that they were bullied at school as a result of their sexuality—an alarming figure, I hope you will agree. Only 6 per cent of schools have an anti-bullying policy that is either gay-sympathetic or gay-specific. Of the young people surveyed, 20 per cent confessed to inflicting serious self-harm or to attempting suicide as a result of bullying. In a recent survey of 200 young people by our project, 20 per cent had been homeless at some time as a result of homophobia.

Although section 28 has been viewed by many parents and others as a safeguard, in our opinion it has assisted in the destruction of many young gay people's lives. We should be honest with ourselves when we talk about the Keep the Clause campaign—when many parents say, "Keep the clause," they are really saying, "I would like my child to grow up to be heterosexual."

We believe that choice has little to do with sexuality. The opinion of the British Medical Association is that sexual orientation is set before puberty. That brings into question the concept of promoting homosexuality. It has been said that we may as well try to promote left-handedness among young people as to promote homosexuality.

Section 28 presents our youth with the message that young LGBT people are second-class citizens in the eyes of the law, and—if they are gay themselves—that they are inferior to their classmates and therefore less deserving of the Scottish education of which we are all so proud. We feel that the section has cut two ways into the fabric of our society, alienating some and prejudicing others.

We hope that the Executive's new wording will remove the venom from the wound that the section has created. Leaders will have to make a genuine effort to ensure that the new wording, along with any guidelines that might be put in place, are not interpreted as an old section 28 with a new name.

Anne Patrizio: I have been a teacher in special education for 20 years. Under education legislation in the early 1980s, children had to be educated according to their needs. We had a carefully worked out sex education programme that encouraged self-esteem, that told children how to say no, and that gave all the health and more general information that you would expect.

My son, who is gay, had no education at school that helped him. He knew when he was six that he was different; he was 23 before he told us that he was gay. He had had 17 years of wondering what was going on. For the latter seven to 10 of those years, he knew that we were not anti-gay, but he also knew that, because of the prejudices in society, we would have a difficult life. It took us quite a while as a family to come to terms with it. Even though we were not homophobic, it was very frightening, because we could not help our child. We did not know where to turn for help. Eventually, we turned to the Lothian Lesbian and Gay Switchboard.

Because the issue cannot be discussed at school, young people learn about it in pubs and clubs. They are at far greater risk now than they were when we had very safe, well-thought-out guidelines that allowed the children to discuss all their problems in a safe environment. That is very important. The parents who phone the switchboard are in deep distress; several of them have had nervous breakdowns because they do not know where to turn. If the issue could have been discussed over the past few years, the parents would not be in the state that they are in. Anyone can have a gay child. If homosexuality could be discussed in schools now, when the children grew up and had gay children they would not go through the torment that the parents who phone us experience.

Jamie Rennie: That concludes our introduction.

Donald Gorrie: In the last paragraph of your paper you refer to "the lack of direct consultation with young people on this issue", which I think is important. Do you have a vehicle at the local level through which we could consult, without waiting for an annual youth parliament? Are there groups of young gay people who could tell us what they thought about things?

16:00

Jamie Rennie: There are two sides to that. First, the Scottish Youth Parliament will be meeting in Dundee this weekend, and it would be interesting to see what the young people who meet in that forum think about this issue. Secondly, around the country there are a number of support groups for young gay people. Many of them have tried to contribute to the debate, but I am not aware of their having had an opportunity to come together.

Although many people have had an opportunity to contribute to the debate, there has not been a proactive effort to seek the views of young people—not only young gay people, but young people in general—on this issue. Much has been said about parental rights, quite rightly, but I do not

feel that the views of young people have been taken on board.

Johann Lamont: Those who argue for the retention of section 28 to protect young people would say that a school's anti-bullying policy is sufficient to prevent homophobic bullying, and that no school should allow bullying, regardless of its cause. Is there something missing from schools' broad anti-bullying policies because of section 28? How would you deal with the argument that a good school would not allow bullying anyway?

Jamie Rennie: It all comes down to practitioners. In a second, I will ask Anne Patrizio whether she has any experience of this problem from her work. Before I came to work in the youth sector I taught for a period, and I feel that teachers who have the responsibility of overseeing and minimising the amount of bullying that happens in schools are missing the education that would help them understand the issues that young gay people face.

The City of Edinburgh Council must be congratulated on introducing guidelines that are very progressive and proactive, and on seeking to monitor specific incidents of homophobic bullying in schools. If that could be replicated throughout the country, it would go a long way towards raising the profile of the issue. The reason that not much has been done and that so many young people continue to present us with incidents of bullying is that we do not have hard evidence to back up the anecdotal data that we collect.

Johann Lamont: Is there any evidence of schools being unable to deal with bullying of youngsters who live in households where a parent is living with a partner of the same sex?

Jamie Rennie: That certainly comes up, and when it has, schools have dealt with it—although everything depends very much on the staff in schools. However, often victims are doubly victimised, because they are expected to change their behaviour.

An organisation in Edinburgh called the Lesbian Mothers Group has had to confront this problem on a number of occasions. It has been suggested that same-sex couples should minimise their interaction with schools, so that they do not draw attention to the fact that their child comes from a household in which there is a same-sex couple. Similarly, in relation to young men and women who are bullied at school, it has been suggested recently at an East Lothian school that a young man should arrive at school five minutes late, leave five minutes early and spend lunch time in the library to minimise the victimisation that he suffers.

Bristow Muldoon: The previous group that gave evidence, the Scottish Council for Single

Homeless, referred to a report that the Stonewall Youth Project was working on in relation to homelessness among young gay people. I know that you have not finalised the report, but can you tell us what your preliminary findings are with regard to the degree to which the inability of local authorities to tackle issues about homosexuality adds to the problems of homelessness faced by young gay people?

Jamie Rennie: The research report to which the previous witnesses referred is an action research pilot project over 12 months, which will move into its second phase as of the beginning of next month.

The first phase focused on gathering data about housing and housing issues from young people who access the Stonewall Youth Project and on recording their knowledge. It found that 20 per cent of those who accessed us had been made homeless as a result, in their opinion, of being lesbian, gay, bisexual or transgender. We have not been able to ascertain how authorities are going to deal with that; that will happen in the second phase.

We are pleased to say that Scottish Homes has supported the project and is looking to support us in providing levels of training to local authorities. Once again, City of Edinburgh Council has become a progressive organisation and has recently changed, or amended, many of its policies and procedures to be inclusive of gay and lesbian issues.

The Convener: My experience of working with parents of drug addicts is that they think they are alone. I suppose that is what happens when you get phone calls. Parents think that they are the first people to whom this has happened.

What do you understand, in the existing terms used in section 2A, as the promotion of homosexuality? What does that mean?

Anne Patrizio: I find it confusing, because you cannot make somebody gay. It is meaningless and frightened staff in the schools in which I taught. My son is mixed race and adopted, and when he had trouble being bullied in relation to that, the schools knew what to do, for example, by teaching about Christmas in many lands. However, when he was older and gay, there was silence because they did not know what to do.

The Convener: Was it your understanding that they thought that if they pursued the matter and talked to him, they would be promoting homosexuality?

Anne Patrizio: Yes, or they did not know how to deal with it because it does not come up in teacher training. It certainly never came up in mine, although I think that Stonewall does a bit more

now.

The Convener: I noticed that one of the quotes in your submission to the committee is

“there are no gay kids in our schools”.

That is an interesting quote. Does Jamie Rennie want to add anything about his understanding of what promotion of homosexuality is?

Jamie Rennie: I am not aware of how to promote homosexuality and would probably be the last person who would want to do so. A lot of young people say: “Why do people think that it is a choice? Why would I choose to be four times more likely to be the victim of a violent attack? Why would I choose to be picked on by society? Why would I choose to be this way when all the messages that society sends out say that being gay or lesbian is difficult and may result in violence, harassment, lower job prospects and a whole range of other things? Why would I choose that? I do not think that it is a choice.”

The quote that I mentioned—I will not say which area it was from to protect the source—was

“there are no gay kids in our schools”.

It referred to the entire council area that the worker had mentioned. That quotation is from a teacher who works in a school in the area and who did not wish the department to be named as they felt that it would come back on them.

While I do not see how it is possible to promote homosexuality, it is possible to promote tolerance and understanding, which should be the cornerstone of Scotland’s education system.

Colin Campbell: As a former head teacher who was opposed to bullying of all descriptions, I did not think that it mattered why a child was being bullied. Bullying was a sufficient offence in itself and had to be dealt with in an inimitable way.

The new paragraphs that the Executive is proposing to include in section 26 of the Ethical Standards in Public Life etc. (Scotland) Bill talk about

“(a) the value of stable family life in a child’s development; and

(b) the need to ensure that the content of instruction provided in the performance of those functions is appropriate, having regard to each child’s age, understanding and stage of development.”

Are you quite comfortable with those paragraphs?

Jamie Rennie: We are fairly and broadly happy with them. We had one suggestion—we felt that the needs of the child should also be considered in order to ensure that young people who are not heterosexual—not only those who are gay or lesbian but those who feel that they have specific needs—could lever education authorities into

providing them with a good quality education.

However, the wording is broadly non-specific as far as sexual orientation is concerned, and we would endorse the sentiments that all school materials should be appropriate. There should be some form of vetting to ensure that all the constituencies of teaching staff, young people, their parents and other people connected to them feel comfortable using those materials.

Colin Campbell: As you have some reservations, I expect that you have experience of some teachers who are not as tolerant, reasonable and forward looking as you might like them to be.

You will understand that there is another side to the argument and that there are people who wish to keep the section who take the view that the Executive’s proposals are the thin edge of the wedge and that promotion of homosexuality could become outrageous. Are you satisfied that that is not the game plan?

Jamie Rennie: I am certainly not aware of any organisations stockpiling explicit material, awaiting the opportunity to flood Scotland’s schools with it. Given the fact that our budget is so low, we could not afford to send a letter to every school in Scotland, never mind a load of leaflets.

Young people have many well-meaning allies, no matter what sort of discrimination may exist within the education sector. The provision of guidance from the top that says that Scotland’s education system should be available to all, regardless of race, gender or sexual orientation, would be a progressive step. The wording of the Executive’s proposals does not hamper that.

The Convener: As there are no more questions, I thank the witnesses for attending. I apologise again for making them wait.

Petitions

The Convener: We have three petitions to consider about which members have received a note from Steve Farrell, who is the clerk to the Public Petitions Committee.

The first petition, PE75, is from Mr Frank Harvey and calls for all circuses involving live animals to be banned. We also have, as annexe 2, a procedural note, and members know about the motion in the name of Tommy Sheridan, which has been signed by Gil Paterson—who has left the meeting—Kenny Gibson, Donald Gorrie and me.

I suggest that there are two courses of action: one is to note the petition and take no action and the other is to write to the Executive seeking clarification on its policy and whether it is to be reviewed.

Mr Gibson: I was the first member to support motion S1M-445, which is on an issue about which I feel quite strongly. However, there is a slight flaw in the petition, as Mr Harvey calls for an immediate ban. If there were an immediate ban, animals might be put down. Although I would like circuses to be banned, I think that there should be a lead-in time of at least a year, and possibly two years, to ensure that a decent home can be found for the animals and that they are not put to sleep. That is the only caveat I would add. I think that we should refer the petition to the Executive for comment.

16:15

Colin Campbell: I agree. When I was on Renfrewshire Council, this issue won cross-party sympathy.

The Convener: Are we agreed that we should write to the Executive seeking clarification on the policy and that we should stress in the letter that the matter is one of immediacy?

Members indicated agreement.

The Convener: The next petition, PE88, is from the Northern College Christian Union and is on the subject of section 28. I take it that members are aware of what the petition calls for. I suggest that we advise the petitioners that the evidence that has been taken from a wide range of Christian and other religious organisations has formed part of stage 1 of the consideration of the bill. I further suggest that we pass the petition to the Education, Culture and Sport Committee and to the Equal Opportunities Committee. They can use it as written evidence for stage 1 of the bill.

The clerk has just advised me that we might simply inform the petitioners that a lot of evidence has been taken and that they could be part of that

evidence-taking process.

Colin Campbell: Will we just stick the petition in as evidence?

The Convener: The clerk advises me that the petition cannot be used as evidence. We will say to the petitioners that evidence is being taken and that the form of the petition could be changed to have it included as written evidence.

We should let the petitioners know that we are in the middle of a process and cannot make a decision about a petition until we have finished our deliberations. All Churches and religious organisations are well represented in the evidence-taking process. Are we agreed that we will write to the petitioners to that effect?

Members indicated agreement.

The Convener: The next petition, PE90, calls for the Scottish Parliament to take a range of steps to provide Aberdeenshire Council with the means to continue to provide the high-quality public services that it currently provides and to implement an independent review of local government funding.

I suggest that we write to Aberdeenshire Council, pointing out the committee's comments on the McIntosh report relating to an independent review of local government finance. We should point out that from May of this year, this committee, along with other service committees, will be consulting formally on the budget for 2001-02. Such a consultation has never been carried out before and will allow us to examine closely the local government budget and other budgets.

I am a bit concerned about the fact that the council has moved away from the position of the Convention of Scottish Local Authorities, although I appreciate the fact that people are concerned that there has not been an independent review. I think that we should advise them to read the McIntosh report and our comments on the report.

Mr Gibson: I agree with much of what you say, but I think that the situation in Aberdeenshire is quite immediate. We should be more sympathetic and express our support for the council's position. I understand that it is taking the cuts—or savings, as the new politically correct term would be—to a judicial review. Although it is one of the most prudent local authorities in Scotland, it is still shedding 250 jobs.

There is great concern in the north-east that the Scottish Executive is neglecting people's interests. It will not be appreciated if we write back to them and ask them simply to read the McIntosh report. We should say that we are broadly in sympathy with the lack of overall funding for local government and accept that the issue must be addressed.

Johann Lamont: We should reach that conclusion by having a debate on local government finance instead of through our support for Aberdeenshire Council. Some of the arguments in favour in Aberdeenshire have implied that urban areas and the central belt have been handed huge amounts of money at the expense of rural areas. I refute that. In the debate on local government finance, I made it clear that there is a very strong case for Glasgow to be treated fairly in the settlement. However, any discussion about the different areas should be in the context of a review of local government finance. I will be most unhappy if our agenda is driven by one council's decision to submit a petition. Because of last week's debate, we are all aware of the issues that affect Aberdeenshire Council. We should take a more measured view of the problems in particular areas.

Donald Gorrie: The problem is that, since the council submitted the petition, the Parliament has had a debate on local government finance. Although it would not be useful for the committee to reopen that debate, I take Kenny Gibson's point that there is an immediacy about this matter and it is not enough merely to reply by saying that we are in favour of a review and send the council our response to the McIntosh report. As the convener suggested, we could tell the council that we will be much more involved with the construction of the budget next year; furthermore, we could send the petition to the Executive. Although the Executive is not very enthusiastic about the points that the council has raised, it would be reasonable to let it know that the council has submitted this petition. Although I would love to have another ding-dong about local government finance, I am not sure it would be all that helpful.

Mr Gibson: I do not know whether I want to reopen the debate myself. I am not saying that rural authorities are being discriminated against; it appears that all councils are being discriminated against and are having to make savings and cuts and to increase council tax. Perhaps Donald Gorrie's suggestion is the most appropriate way to deal with the issue now.

Bristow Muldoon: I agree with Johann. I do not feel able to take a view on Aberdeenshire Council. The committee should not express a definitive view on the council's financial situation. Furthermore, it would not be helpful to home in on that council, because other local authorities have their own views on budgets and how local government finance is developed. It is appropriate to deal with the matter by analysing the whole way in which local government works. Furthermore, it might be helpful to say that the committee recognises that there is a broad range of views in local government that local government finance should be examined in far greater detail.

We should not comment specifically on Aberdeenshire Council's position; I do not have the information to reach a conclusion about its position in relation to other local authorities. If we come down in favour of Aberdeenshire on the basis of no—or limited—information, we might find that we have 31 more petitions next week.

The Convener: Are you waving at me, Colin?

Colin Campbell: I will wave at you privately.

The Convener: My goodness.

Colin Campbell: Donald Gorrie has made the best suggestion. Whatever the outcome, we should recognise that this is an indisputable indication of the urgency and despair felt by the council.

Johann Lamont: That might suggest that no concern is felt by councils that have not put in a petition. I would not want to detract from the impact of hearing that 32 councils want an independent review of local government finance. There is a consistency in what councils say about the way in which moneys come from the Executive. The convener of the Local Government Committee gave that message clearly to the chamber.

The petition reflects a certain problem, but there are others. I am sure that the Executive is aware of the problem, although I have no difficulty with alerting it to the fact that Aberdeenshire has felt the problem to such an extent that it has petitioned the Parliament. In our response, we should highlight the consistency of concern across the country in relation to the matter and say that although we do not comment on specifics, we have made it clear that we would like an independent review of local government finance.

Mr McMahon: There is a problem with the idea that one council out of 32, which submitted a petition, should be seen as a special case. Each authority has different circumstances that will cause certain problems. We have to acknowledge that. That is the issue that the committee has tried to raise.

We recognise that every authority comes under particular pressures, depending on its make-up, its geography and its social problems. Taking up the matter because this is the one authority that has decided to put in a petition and saying that it is a special case would be entirely different from addressing the problems of local government finance.

Mr Gibson: We should be commended on our initiative. As Colin said, the petition displays an element of despair. The council sees us a possible route to getting a more positive reaction from the Executive. We have to acknowledge that.

Mr McMahon: Every authority we have visited on our tour has said that it has particular difficulties and has raised those difficulties with us. Aberdeenshire has taken this approach, whereas other authorities have approached us directly, face to face. We are all aware of their particular difficulties, having visited the authorities or having had their written responses to our consultation. We have to address this as a local government problem rather than as an Aberdeenshire one.

Colin Campbell: We could conclude the matter by agreeing that the petition epitomises the financial despair that all councils currently feel.

Mr Gibson: Despite what the Executive said in the debate last Wednesday.

Bristow Muldoon: On at least two occasions, Kenny has tried to use this to have a go at the Executive. However, I recollect that, in last week's debate, he did not make an alternative proposal.

Mr Gibson: Our position is that we are legally unable to lodge an amendment to a statutory instrument. When the order comes before us, we must either accept or reject it. That is why the Opposition did not lodge an amendment. It would help if Bristow updated his knowledge of the Parliament's procedures.

Bristow Muldoon: The Minister for Finance asked the SNP how much extra money should be put into local government and where it should come from, but as usual the Scottish National party refused to answer.

Colin Campbell: The answer is independence, but we will not go into that.

The Convener: Can we move on and make a decision about the petition, which has nearly caused a riot.

When I said that we should refer the council to McIntosh, I did not mean that we would send it a curt letter suggesting that it read our report on McIntosh. I take Donald Gorrie's point about that. It is also worth saying that the 2001-02 budget will be closely considered over the next year. Donald also suggested that we refer the petition to the Executive. There is nothing in standing orders to stop us doing that. Do you wish us to do that, with the proviso that this is a route that Aberdeenshire Council has taken?

Johann Lamont: We would just pass it to the Executive for information. We are not making a comment on the council's case, but it would be useful for the Executive to know that the council has taken that step. I would be concerned if we sent it off to the Executive saying, "You must address this question."

The Convener: It would be for information only. If Aberdeenshire tells other councils, the Executive

might find that we have to pass on 31 petitions for information, but that is fair enough. That might not be all that harmful to the Executive. Do members agree that we do that?

Members indicated agreement.

Visits to Councils

16:30

The Convener: There are two reports on visits. The first is on the visit to North Lanarkshire Council. Sylvia Jackson was the reporter. I thought that I was the reporter and Kenny Gibson thought he was the reporter. We were all keen to report. Members have the comments from North Lanarkshire in front of them. Does anyone wish to address any points in particular, or do you wish to say something Kenny, as Sylvia is not here?

Mr Gibson: Not really. I do not want to re-run the old record that we have been through in the past week, but there is concern at the reduction in the council's resources. For example, the report points out that

"£80 million capital funding is required to bring schools in North Lanarkshire up to standard."

The director of education said that unless additional capital resources are made available, the council might have to close some schools due to their condition. That is an important issue that we need to put on record.

Councillors feel impotent with regard to road and footway problems. A lot of constituents go to see them about those issues, but resources are not available to deal with them because of hypothecation and other reasons. That is an important issue.

We discussed proportional representation. The main opposition group, the SNP, came out in support of an additional member system, but there is an issue of how well informed people are. I met the SNP group separately. Its members understand the system, but I am not sure everyone else does. I hope that when Richard Kerley publishes his report, the debate will be based on knowledge rather than perception.

When we came to employees having the right to stand for election, all councillors held one view, but the chief executive held a different view. It was important to hear his perspective, which was that a residual issue of public confidence is at stake with regard to local government employees working for an authority, even if there are safeguards.

The lack of women in the authority was raised. Only five out of 70 elected members are female. Two of the 12 SNP councillors and three of the 56 Labour councillors are female. We tried to get the two political parties that were represented to take that issue away and address it.

An issue that came up in my notes, but which is not in the report, is that the leader of the council took the view that once best value was established

and benchmarked in a service, money taken out of the service devalued it. I raised that in discussion with the Accounts Commission when we had its soiree a couple of weeks ago. It took the opposite view—that best value could never be achieved and that continuous improvement was necessary.

We have to take cognisance of the fact that if an optimum level of service has been achieved, we must determine whether reducing resources or making further efficiency savings will damage it. We have to consider how we can provide protection in such circumstances.

There was a lot of enthusiasm for the Local Government Committee and the covenant between local government and the Scottish Parliament. It was interesting that we met the council officials separately. Although they were coy at first, they did open up. Of interest is their wish for local authority boundaries to be coterminous with health board boundaries, for example.

There are 15 health boards and 32 local authorities. It seems daft that part of the North Lanarkshire Council area falls in the Greater Glasgow Health Board area. The working partnership between health boards and local authorities might be more effective if the council has to deal with only one health board rather than two. At the moment, North Lanarkshire Council has to be involved in all the discussions that take place in Greater Glasgow Health Board, even though the board covers only a small segment of its population.

The meeting was very positive, although there were concerns about local government finance. We visited a couple of facilities. One was a school that was doing excellent work, taking in children with learning difficulties at a very early stage. The school showed us considerable evidence that when children's difficulties are identified at an early stage—whether they have cerebral palsy, dyslexia or whatever—their level of educational attainment can be improved dramatically. I took great heart from that project.

We also visited a project in which people with learning difficulties are employed by a company that is almost able to compete without subsidy on the open market, because of the high level of motivation and skill of the employees. I believe that the company employs some 24 people.

We did not, of course, visit the direct labour organisation.

Mr McMahon: You should—it is a shining example.

Mr Gibson: North Lanarkshire Council has been criticised in certain areas over the past couple of years—justifiably, in my view—but we must accept

that there are other areas in which it has done a good job. It is important that, regardless of our political persuasion, we examine authorities as a whole. I think that North Lanarkshire is doing reasonably well in some areas, perhaps in difficult circumstances.

I think that the local authority could do more to employ people with learning difficulties directly. Although the council is working in partnership with other agencies to help, the number of people with learning difficulties who are employed by the local authority is very low. The council took that on board when we discussed it.

This was a very productive visit, and I look forward to returning to North Lanarkshire to see how we can continue to move forward.

The Convener: I visited North Lanarkshire with Mr Gibson, and I agree with what he has said.

Charlie Gray said that the council needs the power of general competence that local government has been requesting for some time, particularly in economic development. The council feels that the lack of such a power detracts from what it could do in that area. The council also talked about ring-fencing and said it did not feel that hypothecation was necessary in many cases.

The council has a debt recovery team, but it is concerned that if poindings and warrant sales are abolished, something solid should be put in their place. The council said that it needed greater dialogue with people in debt.

There was also some comment on compulsory voting. Charlie Gray thought that that was not a bad idea. The council was also in favour of making voting more accessible. It was opposed to an elected mayor. A questionnaire has been sent out to 3,500 council houses on community planning, but the result has not yet been received. We may want to write to the council to ask it whether it intends to publish that.

The council said that it has not been very successful in the second tranche of private finance initiative bids and it wants to know what will happen to those who lost out on challenge funding. It thinks that excellence funds are a better mechanism. It is also having difficulty with match funding.

Like Kenny Gibson, I was impressed by the school and by the factory for adults with learning difficulties. We took up the issue of how many people with learning difficulties are employed by the council. Given that it is a large employer, it probably should have more disabled employees. However, I think that the council took that on board.

The council seemed to be quite happy with its relationships with other outside bodies, such as

health boards, and with the resources that are pulled in by the drug action team.

Overall, it was a good visit, but I would like to go back to North Lanarkshire Council again. I thought that the heads of department were a bit reserved during our meeting.

Mr Gibson: They were reserved compared to the representatives of the Western Isles Council, who were most effusive. However, I thought that the North Lanarkshire heads of department warmed up the longer we were there. There was a bit of fear that Big Brother was watching them.

Colin Campbell: Or Big Sister.

Mr Gibson: No, it was Big Brother. I did not mean that the council was acting like Big Brother, but perhaps they were wary of the chief executive, who rode shotgun during the meeting. In such cases, we might have to loosen the participants up a bit before they speak more frankly.

I should have said earlier that the council is in favour of three-year financial budgets, as, like most local authorities, it does not want the annual duel over budget matters.

All in all, I thought that it was a useful visit.

The Convener: Donald Gorrie will report on the visit to South Lanarkshire Council.

Donald Gorrie: On several occasions, South Lanarkshire Council referred to its concern about the demotivation of local government. It was keen to improve the situation through the power of general competence. It gave examples where it felt that the lack of a power of general competence had delayed initiatives, such as the establishment of Hamilton Ahead, which is a local economic development scheme.

The council likes housing partnerships and thought that they could be a way forward and should be copied in other areas. It wanted to establish such partnerships, which it could lead in a secure position through the power of general competence and the co-operation of other people.

The council did not think that the Executive should be able to fix local authority budgets. It believes that grant-aided expenditure exists in order for the Executive to distribute resources to councils, not for the Executive to determine local decisions on priorities. It was against guidelines, and gave as an example the fact that guidelines do not recognise that East Kilbride has the fastest growing elderly population in Scotland.

On finance in general, like all other councils, South Lanarkshire Council complained that £80 million had been taken out of the budget since 1995 and that it was having to make further cuts of £15 million this year and £60 million next year. The council felt that it did not have enough money

to provide the services that it should provide. It was opposed to the ring-fencing of finance and thought that the capital budget system was unfair as, if it found and sold off capital assets, the budget was reduced the next year.

The council said that 65 per cent of its tenants were on housing benefit and that there was a great need to improve the definition of poverty, given that so much of the financial allocation is based on that. It pointed out that the share of the Scottish block that is spent on local government is going down steadily and suggested that Westminster MPs should be arguing for greater UK resources for local government.

16:45

The council did not favour a cabinet system for local government; it did not see how one could have a multi-party cabinet system. There was quite a lot of discussion about that. The council has a system of area committees, a fact that raises an interesting issue. The area committees reflect the composition of the council, not the parties of the local members. If there are areas in which the opposition has an unusually large number of members, the numbers are adjusted to ensure that the administration has a majority. The interesting issue is how to decide what should be the democratic composition of an area committee. However, those committees exist and seem to work quite well in many ways.

The community councils have a full slate, but most of them do not hold elections. Murray community council in East Kilbride runs three minibuses as part of a small community transport system.

There are opinion meters in shops, as well as citizens' juries, and the council thought that, in trying to consult publicly, there was a danger of raising expectations that it could not satisfy.

The council favours holding elections every four years, the next being due in 2003. The Labour councillors feel that they need a lot more persuasion on proportional representation, and that the need had not been clearly demonstrated, although the opposition members favour PR.

Councillors raised the point that, perhaps because of its geographical location, the council seems to receive an excessive number of letters from MSPs—it receives 150 letters a month. They think that the relationship between MSPs and the council could be better organised, and are keen to establish a joint standing committee of the councils and the Parliament, which they think would help with the issue of motivation.

There is a significant rural area in the south of the council area, consisting mostly of declining

former mining villages. Transport is a main issue, and the council thinks that Strathclyde Passenger Transport uses the wrong calculation for support with fares. The council is concerned that there should be better support for such areas. As a result of the lack of transport, some villages contain refurbished houses that cannot be let. It was pointed out to us that there are no resources for social inclusion programmes in rural areas, although they often suffer greater problems. They are not rural in the same way as the Highlands; but decayed small villages that have severe problems.

Finally, we visited John Ogilvie High School, which is particularly good in community work, especially in music, as well as other activities. The teachers explained the problems that they had experienced because of financial cuts.

Those are the main points, and a lot of the issues are covered in the council's written response.

The Convener: Are there any questions?

Mr McMahon: I took part in that visit as well, and would like to update members. The programme that is run at John Ogilvie High School has been so successful that the head teacher there was awarded a CBE in the honours list in recognition of that. The school makes an outstanding contribution in an area of severe deprivation that contains an inordinately high number of children from single-parent backgrounds.

There are five school bands. The school believes that by introducing music to children and by having every pupil in the school develop through music, the education process is enhanced. That approach has proved successful. They have a pop group, a flute ensemble and all sorts of things. Every part of the school is focused on music. Given the level of deprivation in the area, the success that they have in music is incredible, as was recognised in the honours list award to the head teacher.

Mr Gibson: When schools are doing such exemplary work, it is important that it is recognised. Other schools in the locale and the wider area can learn from such work. Perth and Kinross Council is having to dismiss music teachers because it does not have enough money to pay their salaries as well as to pay classroom assistants.

I am a bit concerned about the figures in question 2 of the report. The report says that the council

"is looking at £15 million further cuts this year and £60 million next year."

To be fair to the Executive, should not that second

figure be £16 million? Surely the figure of £60 million cannot be accurate?

Mr McMahon: Although they may be mistaken, those were the figures that the council gave us. Donald Gorrie has given the figures that the council gave. I do not know the justification for the figures, but they have been recorded accurately.

Mr Gibson: Again in response to question 2, the council says that

“there is no incentive to attract industry, when the capital receipt gained then leads to a lower capital allocation.”

Did the council expand on that? Surely it would want to attract industry for its own sake.

Mr McMahon: The council felt that it was penalised. If it sells its land to a developer, it does not benefit, so there is no incentive to go out and encourage people to buy.

Mr Gibson: But if people get jobs, they will pay council tax and so on.

Donald Gorrie: The council was not suggesting that, because of the lack of incentive, it was not doing anything, but felt that there should be a financial incentive if the council found ground and then went out and found people to set up factories on it. The council felt that it should benefit directly financially, as well as indirectly through jobs and so on. At the moment, it does not benefit financially. The system of capital allocation penalises it.

Mr Gibson: Did the council feel that it lost out because it was considered to be neither a rural nor an urban authority, but a kind of halfway house? Is its rural dimension recognised, or the level of deprivation in its urban communities?

Mr McMahon: You are absolutely right: the council feels that it falls between two stools. In terms of geography and transport provision, it is quite a large authority, but the population of the authority is very much concentrated in East Kilbride and Hamilton. However, the council also has a number of outlying districts that require good transport links. The council suffers from having high-density population areas as well as rural areas. As Donald Gorrie explained, a lot of those rural communities are in decline; and because they do not have bus services or proper transport links, people feel isolated and will not live there any longer.

Mr Gibson: Many areas have also lost objective 2 funding. I notice that the final sentence of the response to question 2 says:

“The Council wondered who advised Jack McConnell on the allocation of finance to councils.”

The council also says that there is a bias towards Glasgow and that South Lanarkshire has as good a claim as Glasgow for deprivation

money. Did it expand on the way in which it thought that the mechanism for defining poverty should be improved?

Donald Gorrie: No, but it recognised the problems and felt that the mechanisms had to be addressed again. It felt that too much weight was given to certain criteria, and pointed out that 65 per cent of its council tenants were on housing benefit, which showed a high degree of poverty. However, I do not think that the council had a ready-made scheme; it was simply pressing for the powers that be to get stuck into the issue.

Mr McMahon: There is a social inclusion partnership area in the Hamilton and Blantyre part of the council, but the deprivation levels in the rural communities are as bad. However, the rural areas do not benefit in terms of financial support in the way that they might do were the whole authority urban. The problem is the mixed rural and urban make-up of the authority and the way in which finance is distributed because of that.

The Convener: We now move on to housekeeping issues.

16:54

Meeting continued in private until 17.03.

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