



The Scottish Parliament
Pàrlamaid na h-Alba

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

AGENDA

3rd Meeting, 2013 (Session 4)

Wednesday 30 January 2013

The Committee will meet at 10.45 am in Committee Room 1.

1. **Decision on taking business in private:** The Committee will decide whether to take item 4 in private.

2. **Subordinate legislation:** The Committee will consider the following negative instruments—

Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2012 (SSI 2012/347),
Non-Domestic Rate (Scotland) (No. 2) Order 2012 (SSI 2012/352),
Non-Domestic Rates (Levying) (Scotland) (No. 3) Regulations 2012 (SSI 2012/353).

3. **Public services reform and local government: strand 3 - developing new ways of delivering services:** The Committee will take evidence from—

Sir John Arbuthnott, President, The Royal Society of Edinburgh;

Robert Black, Former Auditor General for Scotland.

4. **Delivery of regeneration in Scotland:** The Committee will consider a list of candidates for the post of adviser in connection with its forthcoming inquiry on the delivery of regeneration in Scotland.

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The papers for this meeting are as follows—

Agenda Item 2

Note from the Clerk

LGR/S4/13/3/1

[Local Government Pension Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2012 \(SSI/2012/347\)](#)
[Non-Domestic Rate \(Scotland\) \(No. 2\) Order 2012 \(SSI/2012/352\)](#)

[Non-Domestic Rates \(Levying\) \(Scotland\) \(No. 3\) Regulations 2012 \(SSI/2012/353\)](#)

Agenda Item 3

Submission from Robert W Black

LGR/S4/13/3/2

PRIVATE PAPER

LGR/S4/13/3/3 (P)

Agenda Item 4

PRIVATE PAPER

LGR/S4/13/3/4 (P)

Local Government and Regeneration Committee

3rd Meeting, 2013 (Session 4), Wednesday, 30 January 2013

SSI Cover Note

Introduction

1. This paper seeks to inform members' consideration of three SSIs: the Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2012 (SSI/2012/347); Non-Domestic Rate (Scotland) (No. 2) Order 2012 (SSI/2012/352), and the Non-Domestic Rates (Levying) (Scotland) (No. 3) Regulations 2012 (SSI/2012/353).

Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2012 (SSI/2012/347)

Background

1. The instrument was laid on 17 December 2012 and the Local Government and Regeneration Committee was designated as lead committee.
2. The Subordinate Legislation Committee considered the regulations at its meeting on 8 January 2013 and has no points to bring to the attention of the Committee.
3. The Local Government and Regeneration Committee must report by 11 February 2013.
4. These Regulations amend three Scottish statutory instruments namely:
 - The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Scotland) 2008 ("The Benefits Regulations");
 - The Local Government Pension Scheme (Transitional Provisions)(Scotland) Regulations 2008 ("The Transitional Regulations"); and
 - The Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 ("The Administration Regulations").
5. The regulations are subject to negative procedure. No motion to annul has been lodged.

Policy objectives

6. Under the Finance Act 2011, pension administering authorities must comply with the new tax regime in terms of issuing annual benefit statements

which will show whether or not members have exceeded the Annual Tax Allowance.

7. In such cases to allow for funds to pay the tax charge following a request from a member. Where the tax charge is met by the fund any reduction in accrued rights will be carried out in line with guidance to be issued by the Scottish Ministers. This regulation is back-dated to 6 April 2011, in line with the tax regime applicable to pensions from that date.

8. This instrument will amend Regulations to provide for changes to the Local Government Pension Scheme Regulations in relation to the "scheme pays" option on tax charges where members exceed the annual allowance on contributions to the Scheme. In addition, the Regulations make changes in relating to auto-enrolment of local government employees to the Scheme. Finally, the Regulations also make miscellaneous amendments to the LGPS regulations.

Procedure in committee

9. Under negative procedure, an instrument comes into force on the date specified on it (the "coming into force date") unless a motion to annul it is agreed to by the Parliament (within the 40-day period). Any MSP (whether a member of the lead committee or not) may lodge a motion recommending annulment of an SSI at any time during the 40-day period, including after the lead committee has considered the instrument.

Action

10. Unless a motion to annul the instrument is lodged, the Committee need only consider the instrument, and the comments of the Subordinate Legislation Committee and indicate whether it is content not to make any recommendations on it.

Non-Domestic Rate (Scotland) (No. 2) Order 2012 (SSI/2012/352)

Background

11. The instrument was laid on 20 December 2012 and the Local Government and Regeneration Committee was designated as lead committee.

12. The Subordinate Legislation Committee considered the regulations at its meeting on 15 January 2013 and has no points to bring to the attention of the Committee.

13. The Local Government and Regeneration Committee must report by 18 February 2013.

14. The regulations are subject to negative procedure. No motion to annul has been lodged.

Policy objectives

15. This Order prescribes a rate of 46.2 pence in the pound as the non-domestic rate to be levied throughout Scotland in respect of the financial year 2013-2014. A rate of 45 pence in the pound was the figure prescribed by the Scottish Ministers as the non-domestic rate to be levied throughout Scotland for the financial year 2012-2013 (SSI 2012/27).

Procedure in committee

16. Under negative procedure, an instrument comes into force on the date specified on it (the "coming into force date") unless a motion to annul it is agreed to by the Parliament (within the 40-day period). Any MSP (whether a member of the lead committee or not) may lodge a motion recommending annulment of an SSI at any time during the 40-day period, including after the lead committee has considered the instrument.

Action

17. Unless a motion to annul the instrument is lodged, the Committee need only consider the instrument, and the comments of the Subordinate Legislation Committee and indicate whether it is content not to make any recommendations on it.

Non-Domestic Rates (Levying) (Scotland) (No. 3) Regulations 2012 (SSI/2012/353)

Background

18. The instrument was laid on 20 December 2012 and the Local Government and Regeneration Committee was designated as lead committee.

19. The Subordinate Legislation Committee considered the regulations at its meeting on 22 January 2013 and has drawn issues with the instrument to the attention of the Committee. The comments of the Subordinate Legislation Committee are attached in the annex to this paper.

20. The Local Government and Regeneration Committee must report by 18 February 2013.

21. The regulations are subject to negative procedure. No motion to annul has been lodged.

Policy objectives

22. These Regulations make provision for the amount payable in certain circumstances as non-domestic rates in respect of non-domestic subjects in Scotland. They apply only to the financial year 2013-2014. The non-domestic rate for subjects not covered by these Regulations is fixed by Order made under the Local Government (Scotland) Act 1975. For the year 2013-2014 the

rate is fixed by the Non-Domestic Rate (Scotland) (No. 2) Order 2012 (S.S.I. 2012/352).

Procedure in committee

23. Under negative procedure, an instrument comes into force on the date specified on it (the "coming into force date") unless a motion to annul it is agreed to by the Parliament (within the 40-day period). Any MSP (whether a member of the lead committee or not) may lodge a motion recommending annulment of an SSI at any time during the 40-day period, including after the lead committee has considered the instrument.

Action

24. Unless a motion to annul the instrument is lodged, the Committee need only consider the instrument, and the comments of the Subordinate Legislation Committee and indicate whether it is content not to make any recommendations on it.

David Cullum
Clerk
January 2013

Annex

Comments from the Subordinate Legislation Committee on the Non-Domestic Rates (Levying) (Scotland) (No. 3) Regulations 2012 (SSI 2012/353)

1. The Subordinate Legislation Committee's recommendations in relation to the instrument are set out below.
2. The Regulations make provision, for the financial year from 1 April 2013, for reductions in non-domestic rates as a result of the Small Business Bonus Scheme. They also provide for the poundage supplement on larger business properties with a rateable value in excess of £35,000, for the financial year.
3. The provisions reflect the rates reductions and poundage supplement for the year from 1 April 2012, which are contained in the Non-Domestic Rates (Levying) (Scotland) Regulations 2012 (SSI 2012/28). Those Regulations are revoked, subject to provision for their continuing operation as regards any day before 1 April 2013.
4. These Regulations make a change in the Large Business Supplement, to provide for a supplement of 0.9p in the pound for all business properties with a rateable value exceeding £35,000. The supplement for the year from 1 April 2012 was 0.8p in the pound.
5. The Regulations are subject to the negative procedure. They come into force on 1 April 2013.
6. In considering the instrument, the Committee asked the Scottish Government for an explanation of an apparent drafting error. The correspondence is reproduced in paragraphs 10 to 12 below.
7. The response to the Committee acknowledges that there is a drafting error in regulation 6(2), as explained in the following paragraph. Regulation 6 revokes the 2012 Regulations, which reflect the rates reductions and poundage supplement for the year to 2012. Regulation 6(2) makes a significant saving provision, so that the 2012 Regulations continue to have effect as regards any day before 1 April 2013.
8. **The Committee draws the Regulations to the attention of the Parliament on reporting ground (i). The drafting of paragraph (2) of regulation 6 appears to be defective. The paragraph states that "nothing in paragraph (2)" shall affect the continuing operation of the Non-Domestic Rates (Levying) (Scotland) Regulations 2012 as regards any day prior to 1 April 2013. This requires to refer to paragraph (1), for the savings provision properly to have effect.**
9. The Committee notes that the Scottish Government has undertaken to lay amending Regulations, to come into force on 31

March 2013, to correct the error prior to these Regulations coming into force.

10. On 9 January 2013, the Scottish Government was asked for an explanation on the following matter.

11. That Regulation 6(2) contains an error, as it states that nothing in paragraph (2) shall affect the continuing operation of the Non-Domestic Rates (Levying) (Scotland) Regulations 2012 as regards any day prior to 1 April 2013, when it should refer to paragraph (1). Would you propose to correct this by means of an amendment?

12. The Scottish Government responded by stating that it acknowledges that the point raised is an error and thanks the SLC legal advisers for bringing them to the Government's attention. The Government will lay amending Regulations, to come into force on 31 March 2013 which will correct this error prior to the Regulations coming into force.

Local Government and Regeneration Committee

3rd Meeting, 2013 (Session 4), Wednesday, 30 January 2013

Submission from Robert Black on Public services reform and local government: strand 3 - developing new ways of delivering services

Scotland has a strong civic society and public services are full of talented and committed people. We should not allow the good, or the barely adequate, in our public services to be the enemy of becoming great. Our 2020 vision should be that Scotland becomes an exemplar of best practice to the rest of the world in the quality and management of its public services. This is an achievable goal, given clear, unified leadership and a sense of urgency

Two fundamental questions

The strategic policies of successive governments in Scotland have generally been well crafted. Across the whole of our public sector many high-quality services are provided. However, constructive challenge involves asking two fundamental questions:

1. Are doing enough to consider openly the hard choices that are going to be necessary?
2. Is our system of government equipped to act on issues of service redesign and to address the issues of transformational change which are urgently needed?

The Committee's wide-ranging inquiry is very welcome, given that we are living in times of change and challenge for public services, not least in local government.

This note summarises some thoughts under ten headings:

Pressures on public services
Changes in culture, power and finance
New models of public services and systems thinking
Preventative spending
Partnership working
Commissioning and contracting

The role of local government and shared services
Productivity and performance: the need for greater challenge
Effective benchmarking
Shared leadership: a safe space for learning

1: Pressures on public services

The deliberations of the Committee must be set in the context of the well-known severe constraints in the public finances which are likely to continue for the foreseeable future. At the same time, equal attention must be given to the growing demands on services and the severe pressures which are building up. These pressures include:

- Backlogs in the maintenance of the physical estate (roads, buildings and other infrastructure)
- Waste management targets
- Costs of health and social services for an ageing population
- Compensating for the income shortfall from the council tax freeze
- The growing costs of the concessionary travel scheme, free personal care, free prescriptions and eye tests, free post-school education
- The impact of welfare reforms upon council services and the voluntary sector

2: Profound shifts in public services

The Commission on 2020 Public Services identified three profound shifts that are taking place in public services:

A shift in culture, with a more engaged role for citizens, communities, enterprises and wider society;

A shift in power, with a stronger role for local elected bodies in the strategic commissioning of most public services, linked to more control for users of services in how money is spent, and more responsibility given to communities for their local integrated services;

A shift in finance, with greater use of co-payment, co-production and partnership funding models.

Political leaders, and representatives at all levels, will need to have a good understanding of these shifts in culture, power and finance in order to lead and shape the big issues of service redesign and innovation in the public sector.

3: New models of providing public services and systems thinking

There are many new models for commissioning and delivering public services, some of which are listed in the **Appendix**.

Efficiency initiatives over the last five years or so have significantly reduced costs. But the scale of the challenge requires other solutions as well, including a real willingness to rethink how some services are delivered, as well as the redirection of resources towards key priorities and some reductions in services.

Systems thinking should be built into the vision and planning of all public services as complex, adaptive systems. This means designing all services around the users and breaking down old structures and processes if these are barriers to improvements in quality and efficiency. This mind-set can be challenging to old command and control cultures. Systems thinking is about learning and changing, and it should be embedded in all partnership working.

4: Preventative spending

In the 2012/13 budget there was a provision for preventative spending of more than £500 million, with three funds mainly involved - the Change Fund for older people's services; the Early years and Early Intervention Change Fund; and the Reducing Reoffending Change Fund. Although the £500 million provision was a significant move, at the strategic level there is not yet evidence that the main financial cake can be sliced in different ways, given that the cake is shrinking year on year.

This means that a decisive shift towards preventative spending will have to involve changing priorities and activities within the current programmes. Although the Finance Committee of the Parliament will continue to scrutinize preventative spending, it will be difficult to track progress towards more preventative approaches in the major spending areas because the data is insufficient for proper analysis.

How should we define preventative spending? The attributes of the three Change Funds clearly come within the definition, but other spending might also be contributing to preventative services.

For example, free eye testing is recognized as a good way of detecting a number of illnesses; free personal and nursing care will sometimes prevent the need for unplanned admissions to hospitals; free bus travel may also be supporting community care services and reducing pressure on the acute services; the new contract for GPs has encouraged doctors to do more screening and earlier interventions which appear to be contributing to reductions in the incidence of strokes; investment in community-based programmes can reduce the incidence of crime in local areas.

There is a need for evidence-based analysis of the programmes and services which contribute most effectively to prevention.

5: Partnership working

A theme running through the Christie Commission on the future of public services was the importance of making partnerships work more effectively. Making a success of partnerships is vital to enhancing the quality and impact of public services, because most of the big challenges of public service delivery require effective working across organisational boundaries. Audit Scotland reports over the years have highlighted the mixed performance of partnerships on the ground. It is possible to list the key conditions for successful partnership working:

- Strong leadership at political and executive level, with a real, sustained and active role being played by senior politicians, in both local government and central government, and officers working together
- Good behaviours, with an understanding and respect for different organisational cultures and contexts
- Strong shared vision, with a clear commitment to delivering the added value from the partnership, and effective, swift decision making.

- The right people with the right skills.
- A real energy and drive for improvement and a relentless pressure to cut costs, supported by robust accountability structures.
- Robust and effective financial planning and management, with a commitment to driving out efficiencies from the partnership which can be measured and reported
- Robust application of systems thinking to break down barriers to improvement
- Skilled intelligent commissioning of services from the full range of providers – the councils and the health boards themselves, but equally important, from the not-for-profit sector and where appropriate, the private sector.

6: Commissioning versus contracting

Commissioning must be defined broadly, not just in terms of conventional contracts. Contract models are unlikely to be suitable for not-for-profit organisations which work to build community capacity, nurture social capital and give voice to communities. Commissioning should be a broad-based, intelligent activity which looks at the whole system in each local area and the range of support and intervention which is most likely to succeed.

Not all councils have the right commissioning and contracting expertise. There is a need for the Scottish Government, with COSLA, to ensure that councils are supported by a central resource of specialist skills and knowledge.

7: The role of local government and shared services

Back in the late 1980s and early 1990s the idea of the “enabling council” emerged. As the local elected body the council has the authority to specify and commission the services needed for its local community, but in addition to direct service provision, some services would be provided through contracts with shared-service, arms-length, not-for-profit, and private providers which had the capacity to deliver over a wider geographical area.

An important feature of this idea was that it could help sustain variety in the size of councils. Size would matter less for enabling councils than for councils which were direct service providers.

The enabling council idea did not feature in the last reorganization of local government in the mid 1990s. It proved inordinately difficult to make shared service models a reality. The thirty-two new councils understandably wanted to establish as much control as possible over their own service delivery arrangements.

Shared service arrangements are a particular form of partnership working. More recently, the general picture has been one of disappointingly slow progress in establishing shared services between public bodies, especially between councils. In 2009, the Improvement Service concluded that service

improvements and cost reductions can be delivered, but it usually takes up to five years for back-office shared service projects to deliver a return. Building working arrangements between partners must be a long-term commitment but relationships can be fragile and volatile. The review also suggested that plans are often over-optimistic; the challenges of managing change are underestimated; and costs can escalate.

There are, however, recent signs of progress in some areas and sectors. Strategic hubs have been created, for example, in procurement and in capital projects planning and management (supported by the Scottish Futures Trust). NHS National Services Scotland has been exploring shared services opportunities with the Improvement Service and councils in five main areas – information technology; governance and corporate responsibility; facilities management; human resource and organizational development; and procurement including logistics, fleet management and waste management. There are local shared service arrangements in, for example, Stirling and Falkirk, and Midlothian and East Lothian, and elsewhere. In Glasgow, the council has several arms-length organisations which work closely with their parent body

Everything possible should be done to encourage and actively support developments like these. By developing shared expertise and doing things only once for several organisations, there the prospect of delivering more and better services for less cost across the public sector. The key conditions for success in partnership working (see above) apply equally to shared services as a special form of partnership.

8: Productivity and performance: the need for greater challenge

Competition and market testing have played little role in incentivizing productivity improvements across Scotland's public services. How, then, are we going to challenge, incentivize and support coasting and poorly-performing service providers in a robust, systematic and sustained way? It is essential that we have a coherent answer to this question.

One possibility might be to create a standing Commission on Resources and Performance which would focus on the productivity and performance agenda.

We could refocus some of the analytical resources that currently exist in the public sector to get critical mass, drive and energy to push ahead with productivity and performance improvement across the public sector. This exists in other countries. In Australia, for example, there is a Productivity Commission at arm's length from government. It is a standing Commission with the powers to undertake independent reviews commissioned by the Government, with a board of 11 commissioners and permanent staff who are mainly economists.

A Scottish Commission on Resources and Performance could be established at little or no extra cost by bringing together existing resources and expertise. The Commission would be accountable to Parliament and would report in

public to Parliament. It would be objective and independent in all its work and its reporting, but it would build close working relationships with the Scottish Government and Audit Scotland, and it would be guided by both the Parliament and the Government in its work programme.

A Scottish Commission on Resources and Performance could provide the wide-ranging analytical reports for Parliament that would be needed for a rigorous, strategic review process. For example, the Australian Productivity Commission has looked at disability care and support, emission reduction policies, and early years support.

The very existence of a Commission would be a spur to change. If public bodies – and partnerships - knew that they were soon to come under the spotlight of the Commission, they would be incentivised to improve their productivity and cost information before the economists and performance auditors paid a visit. The methods used by Audit Scotland would be very relevant to the work of the Commission which could make good use of Audit Scotland's work in engaging with public bodies on productivity and performance issues and the delivery of best value.

9: Effective benchmarking

Effective benchmarking would be central to the work of the Commission. Benchmarking can be hard to do – it takes time, hard work, and analytical expertise. It is easy for benchmarking projects to decay over time unless there is a sustained, expert resource dedicated to making the project work.

A good example of the power of effective benchmarking linked to robust expert analysis is Scottish Water which improved its efficiency dramatically over the last decade or so. But it took several years to get there, and a strong analytical resource in the Water Industry Commission was a vital catalyst in the process.

10: The challenge of shared leadership: a safe space for learning

The political challenges in service redesign are self evident. When new and improved services are introduced, people initially see these as a benefit; then in the longer term they become perceived as a right. There is evidence that people are more antagonistic towards loss than they are motivated by the prospect of gain. They place a higher value on short-term consumption and they tend to under-value the prospect of greater long term benefits that would result from stopping doing some things now. This makes it really challenging, for example, to move resources towards preventative actions and programmes.

A further challenge lies in the reality that in many areas, producer interests may be opposed to redesign and such interests can have powerful voices in the community and in the media.

Persuading people to give up personal interests is clearly difficult. If politicians are to be supported in leading public services in Scotland towards 2020 then they should be assisted in developing a good knowledge of how public services work and the opportunities for redesign that will lead to a strong and sustainable future for public services.

The big challenges in our society – crime, substance abuse, long term unemployment, poverty, health, housing, educational attainment – are related in complex ways. It is essential to use the tools of systems thinking to break down barriers and embed new delivery models. Therefore all the key players - everyone who holds a position of leadership whether as a politician, and executive, a professional or a volunteer - must come to the same space to develop their skills, knowledge and understanding.

We need in Scotland a safe space for learning and knowledge exchange about best practice. This is partly about compensating for the loss of knowledge and capacity that has resulted from the downsizing of organisations, but equally importantly it is about a systematic approach to learning and knowledge transfer. This sort of learning has to involve people from all corners of the landscape - from central and local government, the voluntary sector and the academic sector. Current leaders would have a key role but the cast-list would include many other players. The safe space could sometimes involve elected representatives from the Parliament and councils. The privilege of becoming an elected representative should bring an obligation to develop personal learning in a chosen area of public service.

RWB
January, 2013

APPENDIX

NEW MODELS OF SERVICE DELIVERY: SOME EXAMPLES

- Traditional third sector provision (organisations may have to change and merge to deliver scalable services)
- Social enterprise and community interest vehicles
- Services organised by user-led mutual organisations
- Employee led co-operatives
- Strategic delivery partnerships
- Traditional outsourcing models
- Joint ventures
- Public sector owned and managed shared service units
- In-house managed services
- Collaborative delivery units based on two or more public sector agencies
- Delivery companies spun from existing in-house provider units
- Public trading companies
- Management buyout led enterprises
- Trade sales to private sector companies