



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 23 November 2016

Session 5



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CONTENTS

	Col.
RETURNING OFFICERS (PAYMENTS)	1
DECISION ON TAKING BUSINESS IN PRIVATE	21
COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 (PARTS 2, 3 AND 5).....	22

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
12th Meeting 2016, Session 5

CONVENER

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

DEPUTY CONVENER

*Elaine Smith (Central Scotland) (Lab)

COMMITTEE MEMBERS

- *Kenneth Gibson (Cunninghame North) (SNP)
- *Ruth Maguire (Cunninghame South) (SNP)
- *Graham Simpson (Central Scotland) (Con)
- *Alexander Stewart (Mid Scotland and Fife) (Con)
- *Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

- Iona Colvin (NHS Ayrshire and Arran)
- Assistant Chief Constable Andy Cowie (Police Scotland)
- Richard Davison (Scottish Natural Heritage)
- Navraj Singh Ghaleigh (University of Edinburgh)
- Sandra Holmes (Highlands and Islands Enterprise)
- Dr Toby James (University of East Anglia)
- Bruce Kiloh (Strathclyde Partnership for Transport)
- Jonathon Shafi (Electoral Reform Society Scotland)

CLERK TO THE COMMITTEE

Clare Hawthorne

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Local Government and Communities Committee

Wednesday 23 November 2016

[The Convener opened the meeting at 09:46]

Returning Officers (Payments)

The Convener (Bob Doris): Good morning and welcome to the 12th meeting in session 5 of the Local Government and Communities Committee. I remind everyone present to turn off their mobile phones. As the meeting papers are provided in digital format, you might see members using tablets during the meeting, so if you see members using electronic devices, I promise that that is what we are doing with them. I say that parrot-fashion at every meeting, as a disclaimer. We have received no apologies, so I am delighted that we have a full house today.

The first agenda item is on payments to returning officers in Scotland. The committee will take evidence from a number of witnesses to explore the purpose and appropriateness of providing payments or fees to returning officers for the conduct of elections in Scotland.

I welcome Jonathon Shafi, who is the campaigns organiser at the Electoral Reform Society Scotland, Navraj Singh Ghaleigh, who is a senior lecturer in climate law at the University of Edinburgh, and Dr Toby James, who is a senior lecturer in British and comparative politics at the University of East Anglia. I thank you all for coming along this morning. It is most appreciated. No one has indicated that they wish to make an opening statement, so we will move straight to questions.

Perhaps we can just ask the most obvious question before we get to some of the technical aspects that we want to interrogate. There is significant concern about the amount of payments—£1 million in the past two years—that have been made mostly to local authority chief executives, and about such payments increasing and becoming more regular. Elections used to be a once-in-a-while occasion in Scotland, but it is evident that in the past 15 years there has been an election pretty much every year; two elections in a year has been known to happen. That is a significant amount of cash going to what members of the public consider to be highly-paid officials. There might be reasons why they received the sums, so I wish to interrogate that further. Do you understand the public's concern? Would you comment on that?

Dr Toby James (University of East Anglia): I am happy to start on that. First, thank you for inviting me to give evidence.

I entirely understand why the committee is interested in the subject and why there would be public concern about the amount of money that seems to be going to returning officers—especially when there is widespread austerity in the public sector and most people are not seeing major increases in their incomes. It is, however, important to be aware that the money is not a bonus that officials are taking; it is money that they receive for undertaking a particular task. They do it independent of their position and there is a case for their being awarded money for it. There is also especially a case for reviewing that and perhaps reducing the fee or redistributing the money.

A particular point to make is that there is a severe lack of transparency about the amount of money that is involved. For the BBC, for example, the figure that is widely cited—and the one to which I think you are alluding—tends to be the amount that returning officers could claim; it is not the amount that they do claim. As far as I am aware, we do not know how much of that money returning officers take as personal income and how much they use for other things—for example, paying their more junior staff for the overtime that they do.

The key thing is that an increase in transparency is needed and is certainly something that the committee could recommend.

Navraj Singh Ghaleigh (University of Edinburgh): I endorse most of that. I should start by saying thank you very much for the invitation. I apologise for the lateness of my submission, which I think you have all received.

One of the points I make in that document, in addition to what Dr James has just said, is that returning officers are a key node in the delivery of an incredibly important function of our electoral administration. The responsibilities that returning officers bear are statutory and there are criminal and civil liabilities.

That raises a question as to what exactly the monies are paid for. If they are paid for officers' labour, there is certainly an argument that the job is a routinised one that, as you said, convener, occurs, at least in the last 15 years, annually or sometimes biannually. There are systems and procedures in place and staff who are considerably experienced. Therefore, from a labour perspective, it is not obvious that the payments are justified.

From a responsibility perspective, however, those officials are ultimately responsible for delivery of an election and will be held responsible if things go wrong, so a different argument

emerges. I think that that is where we might better focus our attentions.

We might veer towards being risk averse in how we move forward from the status quo. Do we want to start moving on the basis of public disquiet such as it is, or is there—as was just said—a need for a more substantial evidence base about transparency of funds or other matters before we make strong claims for reform?

Jonathon Shafi (Electoral Reform Society Scotland): First, I thank you for inviting the Electoral Reform Society to the meeting. Part of our agenda is to bring democracy closer to people; it is also to make democracy as transparent as possible and to build as much faith as possible between the people and the democratic systems and the representatives involved in the democratic process.

There are two key points that we want to make. First, we want to acknowledge the importance of the job of returning officer and some of the things that have been said previously about the responsibilities that are involved. We also want returning officers to be seen as ambassadors who are driven by their ambitions for democracy and by the delivery of democracy for the people. Therefore, we are concerned about the perception that people are involved in the process for high financial rewards, which is an issue of concern for the general public in the political context in which we live today.

The other point is about the idea of people being close to democracy and to the various processes around elections. We would like to see some balancing of how much the individuals are paid, so that people feel a sense of proximity to the process as a whole.

I suppose, also, because we are interested in strengthening democratic procedures, we would like to think about ways in which resources can be funnelled down the chain as far as possible, to ensure that we have a well-resourced democratic infrastructure.

The Convener: On transparency, we do not know how much any individual returning officer receives at any election, whether they take it all, whether they give it to charity or whether they give it to the lower-grade staff who have to do a lot of the work. That lack of transparency leads to a lot of concern. Should all that information be captured annually and consistently and be kept in one place so that members of the public can scrutinise it and make a judgment about whether they feel that the arrangement is appropriate? The absence of identifiable information causes even greater anxiety and concern.

If that information should be gathered as a matter of course, who should be responsible for

gathering it? My understanding is that payments for local authority elections are driven by a process involving the Convention of Scottish Local Authorities, that payments for Scottish Parliament elections are—now—driven by a process involving the Scottish Government, and that payments for United Kingdom and European elections are driven by a process involving the UK Government. How do we pull all that together to get transparency? It seems almost as if things have been set up to be as untransparent as possible.

Dr James: I agree entirely about the lack of transparency. It applies to returning officer fees, but it also applies to the wider funding of elections. My colleague Alistair Clark and I conducted a survey during the European Union referendum and discovered that many officials lack funding for the conduct of elections as well as for the compilation of the electoral register. There is no systematic process across the UK or in Scotland to collect that information.

The UK Electoral Commission conducted a financial survey of local authorities between 2010 and 2012, which gave a good picture of what was going on. However, the project has ended and did not, in any case, cover the issue that we are covering today.

I agree entirely that a systematic process should be put in place. The Electoral Commission might be well placed to do that, because, in connection with the survey that I mentioned, it invested a lot of time in developing a particular methodology for making the information transparent. The Electoral Commission in Scotland could collaborate on that work.

The Convener: Before I let Navraj Singh Ghaleigh answer, I make the general point that if a member of the panel has a broadly similar answer to one that has just been given by another member of the panel, they should not feel that they have to contribute on that point. Not everyone needs to answer every question.

Navraj Singh Ghaleigh: The issue very much depends on what you want the information for and what information is required. Do we want transparency about the aggregate sum that returning officers receive, or do we want to know how much each individual returning officer receives and what they do with the money? Those are two different questions that require two different solutions.

If we are interested in the aggregate sum, one approach might be for returning officers to inform the Electoral Commission how much they have received and what they have done with it, and the Electoral Commission would then disclose only the aggregate sum. If we were interested in the more detailed information, we would require a tougher

non-voluntary scheme in which everybody's receipts would be received. Of course, we do not ask returning officers what they receive in terms of their salaries, ordinarily, and the money that we are talking about is akin to a salary. That approach would, therefore, open up some quite difficult questions. If we are looking for a non-aggregate differentiated sum, there is a danger that the process would develop into a witch hunt. For example, it is well known that some chief executives give the payment to charity and that, quite reasonably, other chief executives do not. You can imagine where that sort of discourse would go.

Secondly, for those who do not take all the money, there would be pressure on them to do so in the future. There would be some unanticipated and deleterious consequences.

10:00

The Convener: Mr Singh said that the payment "is akin to a salary."

However, when a chief executive, who gets a salary from their local authority, does the task of a returning officer, they cannot carry out other duties, so there is a displacement effect and the burden falls on other local authority staff.

We have heard that returning officers have done an exceptionally good job over the years. We would not want to undermine that success—there is no witch hunt whatever from this committee in that regard. However, we want to ensure that when financial recompense kicks in, we know how much it is and where it is going. If it is a salary, we need to know what public officials are doing for that salary. Just as important, lower-ranking public officials in local authority areas who have to take on additional burdens as a consequence should also be appropriately remunerated. Would full disclosure therefore be helpful?

Navraj Singh Ghaleigh: Full disclosure and transparency are really difficult to argue against—there is an intuitive preference for them. Nonetheless, we need to be careful about how such an approach is structured.

If the argument is that everybody down the chain who touches the work should be appropriately remunerated, no one can disagree; that is obviously the case. However, full transparency does not flow from that proposition. I agree with the former. As for the latter, I would want a much more worked-out scheme that made clear how the approach operated—if, indeed, it is operable. I think that in the preface to your question you described the multilevel nature of electoral administration in the United Kingdom and

suggested how difficult it would be to collate the information.

The Convener: Absolutely.

Jonathon Shafi: Our approach is to look at democracy in an overarching sense. Politicians are subject to scrutiny in relation to pay, expenses and so on. Transparency in the structures and processes of elections is just as important, because it is about building public trust, not just in representatives and the debates that happen around an election, but in the process itself.

We take on board some of the difficulties that might be involved, but we want transparency—no least, because we want the process to be made even more effective. We agree that returning officers have done a good job, but we want to consider how we can maximise resources. In that regard, transparency will be vital.

Dr James: Transparency is a good idea. The news story has become widespread and has given rise to a perception that electoral officials—senior executives—are taking money when they should be promoting the democratic process.

If the reality is that the money is received for electoral services and is redistributed to pay senior staff, explaining that might be a positive thing for democracy, especially in the current climate, where there is considerable concern about elites, executives and the role of Governments around the world.

Ruth Maguire (Cunninghame South) (SNP): A couple of witnesses have said—and the point has been made in the written evidence that we have received—that a good reason for remuneration is that some returning officers pay their staff out of the money. Indeed, we were told that some returning officers give the money to charity. Should we be relying on the benevolence of highly paid officers in paying staff who are involved in the process? Is it appropriate that such officers should decide to which charities public money goes?

Navraj Singh Ghaleigh: If we were to start with a blank piece of paper, we would not end up with the scheme that we have now. Ideally, a more rational scheme of reward would be preferable. I do not think that anyone would argue against that. When a key part of the system—namely, payments—is altered, there is a risk that the integrity of the system will be affected. It is probably not beyond the wit of humankind to come up with a system of payments that does not alter the system's integrity, but it needs to be done carefully.

Dr James: On the issue of paying the staff, it is worth saying that staff are routinely paid—they are not volunteers. They have permanent positions and they receive salaries. However, in electoral

services across the UK, business process pressures have built up over a number of years. There has been an increase in the number of late registration applications, because the process is now online and it has become very seasonal. Everyone naturally likes to do things at the last minute, whether it is Christmas shopping or voter registration. At the same time, there has been an increase in the number of people who apply for postal votes. Therefore, there is a lot of stress in electoral services at election time, which is leading to people putting in extra time, doing extra hours and working at the weekend.

It could be the case that returning officers are using the money to pay their staff, but we just do not know, because that information is not made public. I refer to the previous points about that.

Jonathon Shafi: That relates to the point that I made about transparency leading towards higher efficiency and maximising the resources that are available in electoral services. Therefore, I agree. It is a case of building, as far and as deeply as possible, the idea that our returning officers and associated staff are in this to deliver democratic services for the people. There is growing concern among members of the public. There are question marks, especially—as has been pointed out—as the political situation gets ever more terse.

Ruth Maguire: Thank you for those answers. Nobody quite responded to my question about whether it is appropriate for senior officers to be able to decide which charities those moneys should go to and how that might be perceived by the public. We all have our favourite charities, but it is public money that is being used.

Jonathon Shafi: Absolutely.

Navraj Singh Ghaleigh: It is public money, but if that money is akin to salary, it is their money. We do not second-guess how they disburse their salary.

Ruth Maguire: Yes, but in his written submission, Alistair Clark cited that point as a good reason for keeping the current system. That is what I am probing.

The Convener: Would anyone like to add anything?

Navraj Singh Ghaleigh: I would like to say something about transparency. We need to be clear about the burden that we are putting on transparency. Is transparency a good in its own right? Do we want to have transparency regardless of the consequences, or does transparency lead to particular outcomes? It has sometimes been said that transparency leads to greater efficiency or greater public trust. Is that the case?

The regime for election expenditure and income that was introduced by the Political Parties, Elections and Referendums Act 2000 has radically expanded the amount of information that the public have on how political parties and political actors receive, spend and distribute income. Has public trust increased in that process? I would say that it almost certainly has not. That is not a reason for not having transparency, but it is a reason for being clearer about what work we want transparency to do and why we want it.

The Convener: Do you want to come back on that, Ruth?

Ruth Maguire: No, thank you—I am good.

Graham Simpson (Central Scotland) (Con): I thank the witnesses for attending.

Mr Singh, you have said that we do not know the salaries of chief executives in Scotland, but we know exactly what they are—they are all on six-figure salaries. They are extremely well paid, and this is the nub of the question. They are very well remunerated people and, in the eyes of the public, the returning officer role should be part of their job. They should not be getting what Dr James has said is not a bonus but that is a bonus because it is in addition to what they are already getting. The question is, should they be getting paid extra for what many people would regard as something that should be considered part of their job?

Navraj Singh Ghaleigh: It is clearly not part of their job. Sections 23 to 27 of the Representation of the People Act 1983 created a statutory regime that demarcates very clearly that it is not their job. Returning officers have a range of functions and responsibilities that are separate from those of a chief executive of a local authority. It is not their job; it is an additional role that they undertake, which was previously undertaken in Scotland by sheriffs.

Dr James: It is valuable, but it is separate, and that insulates them from any other influences that they may have as chief executives of their local authorities. It is important that we have electoral officials who are independent and not subject to any other influences and who run elections completely independently.

Jonathon Shafi: I have nothing to add apart from the point that I have been making throughout. We want those individuals to be driven by the desire to deliver democracy, not by the sort of remuneration that you are referring to. That does not mean that we do not think that the jobs deserve adequate pay, but we think that it has to be brought closer to what you are referring to—the public good and, in particular, the public's perception of that type of pay.

Graham Simpson: I would hope that they would be driven in any case, given the high-powered jobs that they have.

Mr Singh rightly refers to the statutory regime. The question that flows from that is: should the statutory regime change so that it becomes part of their job?

Navraj Singh Ghaleigh: There is also a broader question about whether returning officers are the people who should be doing the job while acting qua chief executives. Is there a broader need for an electoral management service that would undertake the role and a range of other roles? That question has been knocking around in Scotland and the United Kingdom for a number of years. The problem is that, as soon as we started to establish a new bureaucracy to undertake the function, any cost that we might think we were avoiding by taking away £1 million or whatever it is from returning officers would be quickly swallowed by the new electoral bureaucracy. You would have to specify what the new regime might look like.

Dr James: I agree that it is important to keep the existing system. You could centralise functions within one organisation such as the Electoral Management Board, but that would not necessarily save money, because it would then need more resources—it is the public purse that we are focusing on here. Research shows that centralised electoral bodies are sometimes more expensive and that having a local person on the ground who knows the constituents, the area and appropriate places where a count can be held is really important. When things are centralised too much, that local knowledge, which is very valuable, is lost.

Jonathon Shafi: I underline Dr James's final point about proximity and local knowledge being vital to the delivery of democratic services.

Graham Simpson: I have one more question. If we accept that councils are best placed to carry out the role and that extra money should be paid—I do not necessarily accept that—should the money not go to the council rather than to one person?

10:15

The Convener: That is a specific suggestion. Does anyone have a reflection on that?

Navraj Singh Ghaleigh: You would have to rewrite the contracts of local government officials, if you were willing to undertake that process.

The Convener: None of us is suggesting that it would be easy. Change has to be signposted and organised carefully, but that is not a reason not to make the change.

Jonathon Shafi: That is important. When we are talking about the levels of resources that we have to run elections and to ensure that there is public faith in them, we want to see those resources more efficiently and more broadly distributed. As we have heard, it will not necessarily be an easy process. I would underline that saying that we want those sorts of things to happen does not mean that we believe that the work that people have done up to this point has been invalid—I do not think that that is anyone's position—but we are conscious that the building and entrenching of public trust will require a number of reforms as the years progress. Mr Simpson's suggestion is a valid one.

Kenneth Gibson (Cunninghame North) (SNP): In 37 years in politics, this is the first time that I have heard of returning officers giving away payments to charities or staff. I am fairly cynical, as a number of my colleagues are, about the process. The reason for that is that, when I was on Glasgow City Council some years ago, I talked to someone about when the chief executive would retire. In those days, there were fewer elections. They said, "He'll retire in an election year, because the fee that he gets counts towards his final salary, which means it bumps his pension up for 20 years," or whatever it happened to be. We are not talking about a one-off payment; it could be costing the public purse a significant amount of money for a number of years. I cannot see how it can be justified to pay a returning officer, who in my experience is de facto always the chief executive of the council, £33,238 for the 2016 Scottish Parliament election. Mr Shafi talked about being motivated to deliver democracy, but that is more than any of the candidates were allowed to spend on that election.

Jonathon Shafi: Absolutely. Your contribution outlines the public attitude to the question. There are dangers, unless the issue is looked at and assessed, because it is one thing for people to feel that they are not in touch with their political representatives, which we know is a phenomenon, but it is quite another for there to be a perception that the democratic services and processes themselves are being undermined by the sort of thing that you are talking about. This relates to the previous points about local proximity. It is about the public feeling in touch with how their elections are run and really driving that into society as far as we can, so I would agree with Mr Gibson's point.

Dr James: I do not disagree. There are obvious reasons to be concerned, which have been eloquently outlined, so it makes sense to review the fees that are being paid. I would add that we should be careful to think about the UK-wide system, so that we do not make things overcomplicated by having one rule for Scottish elections and another for UK-wide elections,

because that would become difficult to administer. Perhaps we should kick off the conversation across the UK.

To build on some of the previous questions, there is a strong case for diverting some of those fees from returning officers' services to expenses, as they are set out in the fees and charges order, because that would make more money available for local authorities to conduct the poll. The Association of Electoral Administrators has pointed out in consultation responses to previous inquiries that there are other things that could be covered. At the moment, local authorities are bearing the brunt of the cost of things such as postal vote applications, which come in the crunch period in the run-up to elections, and last-minute registration deadlines, which place real cost pressures on electoral services, and that takes money from all the other important services that they provide.

Kenneth Gibson: Mr Singh, would you like to add anything?

Navraj Singh Ghaleigh: Yes. Is that Mr Gibson? I cannot quite see the name plate.

Kenneth Gibson: Yes.

Navraj Singh Ghaleigh: Thank you. I have made exactly the point that you just made on public record previously, and I made it in my submission. I think that that is a serious risk that goes to the question of public confidence in the system.

I completely agree that reconsideration of the rates of those fees is appropriate. There is no doubt about that. One of the pieces of evidence from one of the representative bodies of chief executives made a remark about the fees being in line with those for other positions of responsibility, but they do not say which positions of responsibility they were comparing them with. That would be a proper area for exploration.

To go back to a previous point, if I may, if we are considering or mooting the idea of moving overall responsibility for electoral administration to council officials qua council officials, it might be worth while to look at the trajectory of that. Prior to 1977, there were sheriffs—independent and unimpeachable. After 1977, it was council chief executives, operating qua returning officers to ensure their independence from the process. Next, it would be local authority officials acting as local authority officials. I suggest that that would be an unhelpful trajectory for the purposes of public confidence in the process.

Kenneth Gibson: Mr Singh, in section 4 of your submission, on page 6, you refer to the returning officer charge being £2,500 in the Orkney and Shetland constituency, which is obviously quite a

geographically diverse constituency, but in Edinburgh the charge was £16,548. Is the workload 6.6 times higher for Edinburgh?

To go back to the figure for Glasgow that I mentioned of £33,238 for the Scottish parliamentary elections, that is not only significantly higher than the average salary in the UK, let alone in Scotland, but nearly £11,000 more than the returning officer in Glasgow earned for the UK general election. I realise that there are one or two more constituencies in Glasgow for the Holyrood Parliament, but how are those figures calculated and how can they be justified in any way, in relation to Edinburgh versus Orkney and the sums of money paid in Glasgow from one election to another? I really cannot imagine that the workload is significantly greater.

The Convener: Mr Singh.

Navraj Singh Ghaleigh: It is actually Mr Ghaleigh, but never mind.

The Convener: My apologies.

Navraj Singh Ghaleigh: That is fine.

I can tell you how the charges are calculated. They are calculated according to—

Kenneth Gibson: The headcount.

Navraj Singh Ghaleigh: —and the charges order. It is a straightforward mechanical process that I lay out in my submission and in appendix 2. It is a straightforward method of calculation. Whether it is justifiable is an open question. I would not say that I am competent to answer that.

Kenneth Gibson: I want to ask the panel whether they think that it is justifiable.

Dr James: Briefly, I would say that the challenges are very different when running a poll in an urban area as compared with a very rural area. I do not think that it makes sense to say that it is six times more difficult, if you like. In some ways there are more difficult and pressing challenges in conducting a rural poll, such as finding polling stations and dealing with the types of logistical issues that come up in more remote parts of Scotland. It certainly seems that the existing criteria do not make sense, and my interviews and experience with returning officers reflect that.

Jonathon Shafi: I do not have much more to add. I pretty much agree with the last comment that was made.

Alexander Stewart (Mid Scotland and Fife) (Con): Thank you, gentlemen, for your comments so far. I have a real concern about the whole process, and I think that the public does, too. There is an uncomfortable perception.

My experience of being on a council over the past 18 years—I have been at every election during that time—is that an industry has started to grow within councils themselves. There is a democratic services director and an election team that is working on a daily basis throughout the year to administer what is happening. I believe that registration for postal votes is dealt with through the valuation boards, so another arm of the organisation is dealing with that.

As we get closer to an election, the individuals come together to do their normal day job, which is administering an election. The returning officer, whoever he or she is, is the overseer for the week before and for the whole 24-hour cycle of an election day—polling stations might open at 5 am and, by the time the count is concluded, it can be 5 am the following morning. I appreciate that there is an antisocial element to all of that, but I still find it very difficult to believe that one or two individuals should receive the lion's share of the funding when, in reality, there is a small army of individuals doing the job who receive no remuneration for it.

Jonathon Shafi: You have made a very good case for a wider distribution of financial resources. We want to see those resources pushed down the chain, much in the way that you have outlined.

People understand that there needs to be a wider layer of people involved in the process. I think that the public would appreciate it if the process was better and more fairly resourced, with the finance not concentrated into the hands of one individual. That is the direction of travel. The big questions are around how we start thinking about that and how it would be implemented.

Navraj Singh Ghaleigh: There is a distinction to be drawn between whether payments should be made and the level of those payments. If I understand correctly, you are making an argument on the latter point, and I agree with you.

Dr James: I have a comment about the army of people who are involved. Big teams are involved in running elections. One of the major changes across the UK has been the introduction of individual electoral registration, which has been a major business process change for every area. It has had cost consequences—it has made the process more expensive and it has also placed a particular burden on the individuals who have been working on it. I have research that shows that.

A survey that was undertaken in February this year shows that half of electoral officials—the army, if you like—have thought about leaving their positions in the past year as a result of that change. There is high stress, high pressure and a big turnover of staff. Although elections have been

run very successfully in Scotland so far, that environment could create problems and pressures, with misunderstandings among new staff; therefore, people need to be nurtured and looked after. The army is as important as the commander, if you like.

Alexander Stewart: We must understand that, as the convener indicated, elections are becoming an annual performance or event. We should be trying to establish an audit trail of how successfully the process is being managed within an authority to see whether there really is value for money in the sums that are being paid to individuals who, as we have heard, already receive a large salary in comparison with many others.

The individuals who are in the “army” and who do the work are earning a fraction of the money that the returning officer has to be given—and you cannot say that it is anything other than a bonus. It is a bonus on their salary just for administering or overseeing something, ticking a few boxes or having a look at the end of the day to make sure that everything is sorted.

The army of people dealing with postal votes in the run-up to the election—in the week to 10 days before, and just before close of poll and so on—are the ones who have to deal with the pressure. In Scotland, a count is now electronic in many instances. If there is a hand count, an army of individuals are paid to fulfil that role and manage the situation. The returning officer is doing less and less of the role and less and less of the management.

The Convener: You make your point very well, Mr Stewart. Does anyone want to reflect on that?

Jonathon Shafi: I have just one comment to make on that. There is a strange contradiction in the sense that we want pressure to increase on electoral services, and, during the period of elections, we want the number of people engaging in elections to increase. That means more people voting, more people using a postal vote and more people registering. We want an increase in pressure, which is why we think that there needs to be a reaction to that. The two work hand in hand.

10:30

Dr James: A theme in that comment and throughout this meeting so far is that elections have increasingly become an annual event and more routine. That is so, but the election process has become more complex. We have a greater variety of elections, different types of electoral systems and different types of ballots. There are more complex laws—there are 30 or 40 laws that returning officers must be aware of when they go into the electoral process, although the law

commissions have recommended simplification of that to make it much more routine. It must be recognised that there is a degree of complexity for the returning officers and also for staff, which has become more of a problem.

The Convener: Mr Ghaleigh, do you want to add anything to that?

Navraj Singh Ghaleigh: Not at this point.

Andy Wightman (Lothian) (Green): On the whole, people think that chief executives run elections. They see a returning officer at the count and they think that that is the chief executive. There is quite a bit of trust in the system, although there were problems in past elections—in 2007, for example. It is only when it comes to the money that people have begun to ask questions. The Representation of the People Act 1983 makes it clear that local authorities

“shall appoint an officer of the authority”

who need not be the chief executive—it could be any officer of the authority.

I have two questions. First, do the returning officers do the job in their own time? Secondly, there does not appear to be any statutory provision for anyone other than the returning officer—for example, deputies who have similar levels of shared responsibility—to get remuneration. The fact that deputies do get remuneration relies on the benevolence of the returning officer in thinking that they should—for example, if it has been a particularly difficult election. Can you clarify the latter point as well as whether returning officers are doing the job in their own time?

Dr James: Whether the returning officers are doing the job in their own time is difficult to know or measure. Having conducted interviews with electoral officials, I can say that a current theme is that many returning officers are very hands-on. They roll up their sleeves and get involved in the management process—for example, by choosing the location of the polling stations. Others, although they cannot devolve responsibility formally, are content to use middle management staff to do that for them. It is impossible to measure that.

However, that is only part of the picture. I think that a Westminster select committee looked at the issue of chief executive pay a couple of years ago, and the committee might find its report interesting. That is the other side of the coin.

Andy Wightman: As Mr Ghaleigh made clear at the beginning of the meeting, the responsibility of the post is considerable. There are liabilities to face if things go wrong, and people need to have trust in the system. I do not think that anyone is questioning whether existing returning officers are

trustworthy, but there is a question mark over the extent to which existing returning officers should tend to be chief executives and how independent they are seen to be by the public. The money highlights that question in their minds. We will reflect on whether the law should be changed to allow greater flexibility in who can be appointed—for example, to allow somebody outside the council, such as a retired chief executive, to be appointed. I will leave it there.

The Convener: Does anyone want to reflect on that comment?

Jonathon Shafi: You are right to point out that the issue is not that people distrust returning officers but that—to put it bluntly—people distrust people who get loads of money. A lot of our research is based on the relationship between people’s incomes and their voting patterns—if they are even registered to vote. We find that, more often than not, the lowest voter registration and turnout numbers for elections coincide with the areas of lowest income. The sticking point is when we talk about money and financial remuneration. It would be much more efficient to have that money properly spread across the various arms of the services that we have discussed. That would help to breed the confidence that you are talking about.

A lot of what we are seeing in the discussion around democracy in more general terms demonstrates that democracy is constantly evolving. The structures and processes of democratic institutions do not have a full stop; we are constantly looking at ways in which we can improve and adapt. As part of that process, we have to look forward and try to forecast where problems might emerge. One area where problems may well emerge in a much more public fashion is the sense that financial remuneration is too high and not spread fairly around the service, as you have mentioned.

Navraj Singh Ghaleigh: In answer to Mr Wightman’s first question about whether the returning officer could be someone other than the chief executive or an officer akin to them, there is a statutory expectation that it will be the chief executive. In my submission I refer to the view expressed by the under-secretary of state at the time of the creation of that statutory expectation that that was the appropriate official.

The question of whose time the job is done in is a very good question. Chief executives are already incredibly busy, carrying out a large amount of highly pressured work. On top of that, almost on an annual basis, they have to carry out the enormously responsible job of running the democratic process. When does that occur? Are they working 24-hour days? How much of the work is deputised? My concern is that that is a rather masochistic approach to the labour market, which

I thought that we had given up on. We do not think that it is valuable for people to work all the hours that God sends just to demonstrate their worth. If you were to argue that it is a professional job of great responsibility that needs to be done properly, that is not the way in which you would do it. It would become too pressured.

The other question is about devolving the money. The money is not paid for labour—it is not paid for the quantum of work that a person does. It is paid for the responsibility of the job, and the responsibility does not flow down; rather, it rests with the returning officer.

Dr James: Although there are legal impediments to giving the role to someone else, one advantage of the returning officer being the chief executive is that they have a sense of informal managerial kudos within the organisation. If the chief executive says that something must be done, by and large, smaller units will feel that they need to do that. When it comes to elections that take place in a pressured time period, providing additional staff and resources can make a big difference, and that is added value.

Andy Wightman: Can I just—

The Convener: No. We have to move on, and Elaine Smith also wants to ask a question. I am sorry, Mr Wightman. It is an interesting line of questioning, but we have witnesses waiting. We will run the discussion for another 10 minutes or so and then conclude this part of the meeting.

Elaine Smith (Central Scotland) (Lab): Before I come to my question, I want to pick up on the previous point. With such big, responsible jobs, which are remunerated accordingly, how on earth do chief executives have the time to attend counts? What else loses out when they do? Mr Ghaleigh raised that point, which is something that we need to think about.

Mr Ghaleigh, in your evidence you talk about the complications in England and Wales. You mention that

“the returning officer is a ... ceremonial ex-officio role”.

Does that mean that it is unremunerated?

Navraj Singh Ghaleigh: It is ex-officio but it is not ceremonial as such, and it continues to be remunerated on the basis of the charge order.

Elaine Smith: Sorry—I used the word ceremonial because that is what you say in your submission.

Navraj Singh Ghaleigh: It is ex-officio and, in certain circumstances, it is deputed down. There is a different regime in England and Wales.

Elaine Smith: However, it is still paid.

I return to the paid role and your point, Mr Ghaleigh, about the remuneration being about responsibility rather than labour. Are any members of the panel—sorry, I should have thanked you all for coming—aware of whether there have been any sanctions? We have seen problems over the years, such as boxes lost at sea, issues with postal votes and problems the first time that the electoral counting system was tried. Have there been any sanctions?

Navraj Singh Ghaleigh: I think that Dr James is the expert on that.

The Convener: There is no pressure, Dr James.

Dr James: I cannot give you the data on that off the top of my head, but it would be worth collating. It is certainly the case that returning officers have been subject to the courts. In the case of the Tower Hamlets electoral fraud inquiry, for example, the returning officer was initially put before the courts. I am not sure in how many cases the Electoral Commission has stopped the fee going to a returning officer, but I am sure that it will be able to tell you next week.

Navraj Singh Ghaleigh: This goes to the question of the evidence base. There is a real need for far more detailed knowledge of exactly what goes on, whether it relates to the specific point that Elaine Smith just made, to the sums that are paid out or to the level of superannuation that attaches to them—which is, I think, an issue that Mr Stewart raised. We just need to know more, and these are the right sort of questions.

Elaine Smith: I do not know how much you know about the Electoral Management Board, which covers only the administration of local government elections. Could that role be expanded? Mr Ghaleigh, you said that, if we were to set up independent systems, there might be a lot of work, more red tape and perhaps a need for more funding. Could that be looked at to see whether there are possibilities?

Navraj Singh Ghaleigh: It could certainly be looked at. It has already been looked at. After the electoral difficulties in 2007, which have been referred to, that was among the issues that were surveyed. It might be worth asking the people who are more intimately involved in that process what consideration they gave to the issue and why it would be appropriate to revisit the issue so soon.

The Convener: Before we draw this evidence session to an end, it is worth clarifying something. We will have chief executives before us to give their views on the issue, and their evidence will be crucial because they have done the job on the ground. Already today, we have heard concerns about transparency in relation to payments, concerns about the level and consistency of

payments and concerns about the workload that may or may not be involved for returning officers. We have also heard about what returning officers may not do if they are working with an army of soldiers on the ground—which Alexander Stewart referred to—who may not be compensated for the additional work that they do.

We are saying that elections are run very well in Scotland, but is it also reasonable to say that the system of payments somehow has to change? Is there consensus on that? If there is not, exactly how should payments be made to returning officers or whoever else? Does the system have to change?

10:45

Jonathon Shafi: Yes.

Navraj Singh Ghaleigh: The system needs to be better justified. If appropriate justifications are not forthcoming, it will have to change. Justification is the starting point.

The Convener: There needs to be more scrutiny and better understanding of what is going on, with potential change in the future, but we should wait and see what the evidence shows.

Navraj Singh Ghaleigh: Exactly.

The Convener: That is helpful.

Dr James: I probably agree. Transparency can be brought about very quickly and at low cost, and it would immediately provide us with the information to enable us to undertake a wider review.

It is worth stressing that there is a need to review not only how much money returning officers are receiving but some of the pressures that lie underneath that and the overall situation.

The Convener: Are you aware that the Scottish Government has said that an elections bill will be introduced within the current parliamentary session? Might that be an opportunity to scrutinise the matter further and see whether Scotland can provide more consistency and transparency?

Jonathon Shafi: Yes. You should also consider some engagement with members of the public on the issues. It is good to hear from folk who are involved professionally and from chief executives, but it would be interesting to get some evidence and find out what the attitude of the general public is. We might do some work on that.

The Convener: Does Mr Ghaleigh or Dr James want to add anything before I bring the evidence session to a close?

Navraj Singh Ghaleigh: I could clarify Ms Smith's point about the role being ceremonial, but I can do it off the record if that is preferable.

The Convener: I am happy for you to contact the clerks.

Navraj Singh Ghaleigh: I have just found that point in my submission. In England and Wales, the returning officer is a country sheriff or the chair of a district council, but the acting returning officer, who is a council official, does the job and is remunerated.

Dr James: Building on that, it would be an excellent idea for there to be a further inquiry based around a potential elections bill, but there is also a need to develop systems that do not jar with the wider UK context so that we are not asking electoral officials to work to too many sets of electoral laws and practices.

The Convener: All that remains is for me to thank all three of you for coming along here today. I appeal to you to follow our evidence sessions in this short inquiry. If you want to make any additional points, please do not hesitate to get in contact with us, as it will help to inform the conclusions that we eventually come to.

10:48

Meeting suspended.

10:52

On resuming—

Decision on Taking Business in Private

The Convener: Welcome back to the Local Government and Communities Committee. Prior to the item in which we heard evidence on payments to returning officers, I should have taken item 1. I did not do that so I am now going to do so formally.

Does the committee agree to take item 6 in private?

Members *indicated agreement.*

Community Empowerment (Scotland) Act 2015 (Parts 2, 3 and 5)

10:52

The Convener: Item 3 is subordinate legislation. The committee will undertake its second evidence session on parts 2, 3 and 5 of the Community Empowerment (Scotland) Act 2015.

Nine Scottish statutory instruments relating to part 2, on community planning, and part 5, on asset transfer requests, were laid before the Parliament on 10 November 2016. Further SSIs relating to part 3, on participation requests, are expected to be laid later in the year and therefore evidence relating to that section will refer to regulations that are currently in draft form and will feed into its formal scrutiny of the final instruments.

I welcome Assistant Chief Constable Andy Cowie of local policing north, Police Scotland; Sandra Holmes, community assets sector lead, Highlands and Islands Enterprise; Iona Colvin, director of health and social care North Ayrshire, NHS Ayrshire and Arran; Bruce Kiloh, head of policy and planning, Strathclyde partnership for transport; and Richard Davison, strategic manager, Scottish Natural Heritage.

Given the size of the witness panel, we are not having any opening statements from witnesses this morning. We will move straight to questions.

Andy Wightman: Welcome, witnesses. The SSIs that we are looking at relate to community planning and asset transfer, and there is a draft SSI on participation requests. How significant in general terms are the powers that are contained in the Community Empowerment (Scotland) Act 2015 for your organisation's work? What do you think are the benefits and some of the challenges in implementing the new legislation?

Sandra Holmes (Highlands and Islands Enterprise): I will kick off.

The Convener: Sandra Holmes was the first to catch my eye. Just a note to the witnesses: I can be a bit absent-minded so please make an effort to catch my eye and I will not ignore you.

Sandra Holmes: We very much welcome the direction of travel, which encourages us to continue to support communities and make any engagements that we have with communities meaningful and relevant to them. HIE has a unique remit that includes working alongside communities as well as undertaking work to promote businesses. We see the step change in

having the statutory framework. We need to give communities confidence that, when they engage with us, we will give their input due consideration, reflect on it and engage appropriately with them.

Iona Colvin (NHS Ayrshire and Arran): I think that the act builds on some of the duties that we have under the Public Bodies (Joint Working) (Scotland) Act 2014. As the director of health and social care, I am interested in how we can develop those duties. In North Ayrshire and in Ayrshire and Arran, we have been developing a locality planning approach. That is a significant piece of work that we have done both in the community planning partnership and in the health and social care partnership, and it is really about the delivery of the health service in the community. Building on that, we have had a number of successful locality planning events that have fed into the development of our strategic plan for the priorities for health and social care as well as more widely into the community planning partnership. We are building in that direction and are trying to meld that together along with the requirement under the Public Bodies (Joint Working) (Scotland) Act 2014 to involve professionals—particularly general practitioners and other health professionals—in determining those priorities.

We have now established locality planning with the involvement of GPs and integration joint board members, who are a range of people from elected members of the council to staff representatives who chair those committees. That has been an interesting development, in which communities identify their priorities alongside medical practitioners and other practitioners who deliver the services and feed into the whole area of our communities of interest. We have had a number of participatory budgeting events and, in the spring, we will have a communities of interest event on mental health, because mental health has emerged as a significant issue for every community in North Ayrshire. The legislation may then allow that to develop further into looking at the delivery of some of those services in the future and the ownership of some of the assets.

Assistant Chief Constable Andy Cowie (Police Scotland): One word that comes to mind is “opportunity”. We are using the new act to build on the strong partnership ethos that we have had going right back to 2003, when community planning came into being. I would anchor that against two particular things. First, we should simplify some of the bureaucracy within planning. As you are well aware, under the Police and Fire Reform (Scotland) Act 2012, there is a requirement for local policing plans in the 32 local authority areas. We have seized the opportunity of the local outcome improvement plans that came out of the Community Empowerment (Scotland) Act 2015 to simplify that so that, instead of our

having silo organisational local policing plans, the direction of travel is to have in use local policing plans that are much more integrated or part of the LOIPs, as they are called. That simplifies the matter and makes us more authentic as an organisation. We would kid ourselves if we thought that we solve any problems on our own; working together has been the tradition in Scotland. We have seized the opportunity to make it simpler for us and for our partners to work together to deliver wider community benefit. That is one opportunity.

The other issue is localism and the need to be responsive to local communities. The participation options and requirements on us build on the direction that we want to move in, which is about empowering our officers and staff in the organisation to be more responsive to local challenges and opportunities. There is a real chance to build on some of the strengths. We see that there is already a lot of strength in community engagement, but the act takes it to the next level. It is not about forgetting those strengths but about enhancing them and moving them forward to the next level.

Bruce Kiloh (Strathclyde Partnership for Transport): Thanks for the opportunity to come and speak to the committee this morning. You may be aware that SPT has been a statutory community planning partner since 2003. We have found community planning to be a useful process that has enabled us to engage not only with local communities and third sector bodies but with the wider council family. We have been glad to be part of that process over the past 13 years.

One of the ways in which we have done that is through producing annual transport outcome reports, which provide detailed information for each local area. They are available to all members of the CPP and councillors and we put them up on our website. That is just our way of demonstrating the value locally of the SPT services that we provide. For example, you will be aware that transport is strategic and cross-boundary buses often do not observe local authority boundaries, so it is sometimes a challenge for us to get things down to the local level. That is something that we are very aware of as we go into locality planning. That is something that we try to convey. For example, we run the Glasgow subway and, although it is based in Glasgow, people from other council areas use it. People in North Lanarkshire, for example, get the benefit of it.

11:00

The current community planning system works well for us. We welcome the Community Empowerment (Scotland) Act 2015. Our wee note of concern is that we are a strategic, regional and cross-boundary organisation so we sound a note

of caution about our ability and that of other regional and national bodies to break things down to the local level to demonstrate the value that we are delivering in a local area.

Richard Davison (Scottish Natural Heritage):

We, too, welcome the broader and stronger framework that the Community Empowerment (Scotland) Act 2015 provides. We have always felt that community involvement, engagement and empowerment are important from the environmental point of view. A lot of communities do good work around environmental issues. We therefore hope that the framework and the rights for community bodies to get more involved in those sorts of issues is really powerful.

The legislation is not without one or two challenges from our point of view. A bit like SPT, SNH is a national body and we have to deal with a lot of communities and local authorities and all community planning partnerships. It is very much an opportunity rather than a challenge. There are far more opportunities coming out of the legislation to put the environment more at the centre in how community planning partnerships work.

The Convener: That gives us a context. Mr Wightman, do you want to drill down on some of that?

Andy Wightman: I have a couple of specific points, but I might come back in with them later.

The Convener: Okay.

In our earlier evidence session, we looked at asset transfer requests. When we were thinking about local authorities, it was quite easy to think about what such requests might mean. We have a variety of organisations that we have in front of us today and I am interested to know if you have thought about what the legislation might mean for the facilities or land that you have. Have you given any thought to assets that the community might be interested in taking control or ownership of?

Bruce Kiloh: Absolutely, convener. We are grateful to colleagues in the Scottish Government who took account of our views in the legislation. For example, Glasgow subway is an operational piece of railway. We would not want somebody requesting that one of the stations was transferred to them, although we do try to work with local communities, obviously. There are national strategic pieces of infrastructure that need to be protected. I include the subway and our bus stations in that.

We have other land available and we will happily put it up on our website to let people know about it. You will be aware that it can sometimes take many years to deliver the planning and funding for transport projects, and it is important to remember that we might want to hold on to a piece

of land because of a wider or longer-term strategic need for it. For example, old rail solums might need to be opened up some time in the future, or pieces of land might be needed for a park and ride.

There are huge opportunities for local communities. We would like to see a strong emphasis and responsibility placed on the community body when it is applying to an organisation such as ours or to anyone else to show that there is a clear demonstrable need for that land, a good governance structure in that community body, and something that gives us some reassurance in dealing with that organisation from a legal point of view. We welcome the opportunity that the legislation provides but, from the strategic transport of view, we are keen to protect our infrastructure.

Richard Davison: In our case the main assets for transfer would be nature reserves and the buildings that we own. Last week, our board approved a rural land asset management plan—quite a long title—which reviewed all the nature reserves that we own, looking at the opportunities for engaging with communities about the transfer of assets to them and the sorts of issues that would arise from that. We are adopting what we hope is a pretty positive and proactive approach to that.

Sandra Holmes: When asset transfer is talked about generally, people tend to think about local authority assets that are surplus to requirements. Things are changing on to a new footing, very much putting the power in the hands of communities to come forward to any public authority with requests not only to purchase but to lease, use or occupy public assets, buildings or land at any time in the future.

HIE has quite an extensive property portfolio, mainly built assets, and they are very much productive assets for us; we do not really have anything that we would deem to be surplus. We have a range of business units, most of which are units that we have constructed and we then seek tenants to come in and create economic opportunities. We also have sites for development that we are looking at quite strategically in order to get the most productive use out of them, and we have a range of operational offices as well.

Recently, in April 2016, we amended our disposals policy to better reflect the forthcoming requirements of asset transfer. We have introduced best-value decision making when we seek to dispose of our assets. We frequently put assets on to the market, and our default position has always been, when we have a tenant in one of our buildings, to offer the asset to the tenant at market-value terms. It is important to recognise

that businesses develop economic and social benefits, as do communities.

The asset transfer policy that we introduced is that, if there is a community interest in any of the assets that we are seeking to sell or lease, we will take a best-value judgment in our decision making, taking account of the wider non-financial benefits that the bidders are going to take forward and including businesses alongside communities in that.

In one example, when we were seeking to lease an asset, we went through the process and we received only one bid, which was from a community organisation. The lease went to that community through the asset transfer process. We currently have a live case in which we have one business interest and two community interests in a single piece of ground; we are just going through the assessment process for that.

HIE has also provided grant assistance to communities to secure assets, either from us or from other private and public organisations. We supported a community in Tiree to purchase a business unit from us. They now have their own premises in that business unit and they also have other tenants—it is a way of generating income for the local community.

It is important to see that these are productive assets as well as surplus assets, but productive assets can do very well in community hands, as well as in other hands.

The Convener: Thank you. Does Iona Colvin or Andy Cowie want to follow up on any of that?

Assistant Chief Constable Cowie: Yes. Again there is an opportunity for us. To provide context, as the convener has referred to, the new chief constable has put in place collaborative work to develop a 10-year strategy, which is called the 2026 strategy. That looks at what service we are seeking to deliver with communities and partners in future, and it will be going out for public consultation in January or February 2017.

The estate is an enabler of service delivery; it is not the other way round. Therefore, as an organisation we are looking—internally, first of all—at where the current demands are for the estate, from the public and ourselves, and from that we are working through a huge number of collaborative opportunities, in which we can share roofs and work closer together with other public sector bodies and other people. We have seen examples, such as a community hub in Aberdeen, and there are all sorts of opportunities out there.

We are seeking to gain early change opportunities, and there are a number of consultations out and about with people, looking at that locally. However, given the geography of

Scotland, we will always need to have bases for our officers to patrol from. They need to turn up, change into their uniforms, get their gear on and then out they go. We will always need a wide geographic spread of such bases.

The Scottish Police Authority owns all our premises, so the decision on what happens with them in the longer term is one for it. At the moment, we are looking at our estate and, on the back of the public consultation on the 2026 strategy, once we are clear and agreed in Scotland about what we are trying to do as a police service, we will have to look at the estate again. That will be coming out for wider public consultation in 2017. We have more than 420 operational buildings the length and breadth of Scotland and we will build the asset transfer policies into the processes for that to make sure that they are encompassed.

The Convener: Does Iona Colvin have a view on how we should look at health and social care partnerships in the context of asset transfer? Where would they sit?

Iona Colvin: The work that we are doing with all our partners in communities is going in that direction. For example, we work with all the partners on the island of Arran to look at the totality of the assets that are owned by the national health service and the council—none of it is owned by the partnership—and how we will use them in future. We are looking at how we use the hospital on Arran in particular.

As we go forward, we can see different opportunities for parts of the estate to be used by the community. NHS Highland has done quite a lot of work in that regard; it has done a number of community asset transfers for its services. For example, in Lochinver and another couple of places in Highland, it has worked with community groups to look at those groups taking ownership of and running services in more isolated communities. We want to look at and learn from that work as we move forward with the model.

The Convener: Okay—that is very helpful.

I have a number of bids from members for supplementary questions. We are trying to stick with asset transfer, so that we can cover it as a theme. Alexander Stewart is first. Is your question on asset transfer, or should I take it later?

Alexander Stewart: It covers asset transfer.

The Convener: It covers asset transfer, or it is on asset transfer?

Alexander Stewart: It is on asset transfer.

The Convener: Okay—thanks.

Alexander Stewart: I have a specific question for Assistant Chief Constable Cowie. In your submission, you talk about

“responding to the needs of communities that lie at the heart of Police Scotland”.

I think that we would expect you to say that in your submission—if it was not in there, we would be wondering why. In your previous answer, you went into the complexities around the buildings that you have across your estate. That opens up some real challenges for you, but it also opens up some real opportunities.

I am aware that negotiation and consultation are taking place in some communities. There has been some criticism, because some people see the situation as an erosion, a removal or a loss. The question is how you balance things. In certain communities, the existing estate brought confidence in your role and responsibilities. If things change and there is a removal, a loss or an erosion, there is also an impact on the community, and you are left trying to manage that. Your views on that would be interesting.

Assistant Chief Constable Cowie: The question is, quite rightly, framed around service—and erosion of service—because service is delivered by people, not by buildings. I suppose that we all have to manage something—whether it is a household budget or an organisational budget. If we are occupying only one of three floors in a building and it is costing us an arm and a leg because it leaks like a sieve, it makes no sense to maintain that building if there is a smarter and more collaborative option in the vicinity. That is what we are seeking to seize in these change opportunities, as we depict them.

It is important to remember that it is still local officers who will be deployed to help members of the public. Ninety-five per cent of our calls come in by telephone, and officers are then deployed. The feedback that we get is that people want to see the officers and have that service delivered.

It is absolutely a balancing act. We need to be able to fulfil our statutory duty but there may be a wider public benefit with an asset transfer. That is one of the questions that we are exploring with Government officials. Apparently, it is down to the accountable officer within the SPA to decide what is best value: public benefit versus the requirement to maintain our statutory function and receive capital receipts. That is going to be challenging. We can envisage a situation in which there are a couple of competitive community bids for premises or for a lease. How would we weigh up the public benefit in such a situation?

As previous speakers have said, I think that a lot of that thinking will evolve as we go through some of the early examples. It is about service delivery

and how we can do that in a joined-up way within the budget that we have.

11:15

The Convener: We still have lots of questions on asset transfer.

Kenneth Gibson: I have a question for Sandra Holmes. One of the concerns that was raised in evidence last week was the horrendous amount of time that it takes to negotiate some transfers.

We heard of one local authority case in which, apparently, there was a willing buyer and a willing seller but five years later nothing had happened. You obviously have a lot of experience in the Highlands and Islands. What are you doing to overcome that problem so that community organisations do not become disheartened by the length of time that it takes to negotiate a transfer?

Sandra Holmes: It is fair to say that some community acquisitions or asset transfers are measured in months and years rather than weeks. It really depends on where the community is starting from. If a community has a very clear, identified need that it can articulate, identifies an asset that can help it to meet that need locally and negotiates with a willing seller, things can go through quite quickly. However, it invariably takes the community some time to develop its case. That is where HIE, alongside our partners, can really help with community capacity building. That is a big part of the process.

The asset transfer provisions provide a framework for authorities to work to, but that is not the only route. If a public authority is looking to dispose of an asset, it is not mandatory for it to go down the asset transfer route; it can still be a willing seller. There is nothing at all to prevent something from being done really quickly.

However, if communities put forward an asset transfer request, the authority has to deal with that request and cannot dispose of the asset to any other organisation in the interim. That gives communities a lot of power in guiding and controlling the conversations. For me, the benefit to communities of asset transfer is having that engagement and that better traction with public authorities over access to buildings—it might be that a lease or just use of a building is appropriate.

Communities tend to have aspirations for ownership, which can bring them long-term benefits. A lot of the work that we do in HIE involves providing assistance on the funding side to enable a purchase to go ahead. Alongside colleagues in the Big Lottery Fund, we administer the Scottish land fund on behalf of the Scottish Government. There is a budget of £10 million for the current financial year to facilitate asset transfer

and other purchases, perhaps involving the private sector as well. Asset transfer brings benefits.

I have read the evidence that the Development Trusts Association Scotland provided last week. It is vital that communities take the time that they need to prepare and do the relevant business planning. As soon as they take on a lease or, in particular, ownership, they take on responsibility. It is important that they get the right asset and that they have the means to manage and maintain it over the long term.

Fundamentally, this is all about delivering improved outcomes. There are lots and lots of communities across Scotland—including many in the Highlands and Islands—that have demonstrated very effectively that it can be done. I think that taking time to prepare and get all the ducks in a row is a very big indicator of successful community ownership of an asset. It is not a process that you would want to shortcut; going through it enables communities to look at things openly and do proper business planning.

Elaine Smith: I thank the panel for joining us. My first question is a general question that perhaps comes in on the back of what Sandra Holmes has just said. While the witnesses are thinking about it, I will ask Assistant Chief Constable Cowie a specific question.

We have heard in evidence that exploring an interest in an asset can be an expensive process for communities. At what point do you think that the asset should be frozen? There is some concern that a community can spend its funding to explore an interest and draw up business plans and so on, but before it finalises the process of getting the asset, the asset has already been disposed of. In addition to the rules that already exist, there must be a point at which it would make sense to freeze the asset. I will leave that question there.

My specific question for Assistant Chief Constable Cowie relates to the Police Scotland submission, which says:

“Legal clauses will also be required to ensure that a community group cannot obtain premises under the Act and then sell later at a substantial profit.”

I would like to explore that a bit more with him. Some local authorities might have assets that were gifted to the public sector—for example, Carnegie libraries or parks—but which they sell at a profit to the private sector. In what way would it be different if a community took on an asset? Why should it not then be allowed to sell the asset later at a profit? Would it be different if it were to put that profit back into the community? Why can public bodies sell such assets at substantial profits?

The Convener: Assistant Chief Constable Cowie, we will come to you last to answer that point. That will give you more time to think of an answer.

Who would like to come in first on the more general question?

Sandra Holmes: I will happily speak to that. I am comfortable with how the legislation provides for the freezing of an asset. We need to get a balance between the opportunities for communities and the day-to-day operation of a public authority's management of its asset portfolio.

In some cases, there can be an active property market in terms of selling assets on, and in its contribution to the consultation, HIE was keen to express the need for asset transfer not to interfere with the property market. Organisations—whether they are community organisations or businesses—that seek to purchase an asset go through a big process, which gets stymied by a late asset transfer request coming in once the asset has been marketed. That has consequences. Because communities can act at any time under the asset transfer provisions, the idea is that they should be proactive and engage with us at an early stage so that we can enter meaningful dialogue. The guidance clearly encourages communities to come forward at a pre-application stage, but the asset transfer process does not take effect until we get a full asset transfer request.

The community right-to-buy provisions are also open to applications for public authority assets, so there are a range of opportunities for communities to secure assets. However, we need a balance and I am comfortable with the way in which asset transfer is provided for in the legislation.

The Convener: Does Iona Colvin want to add anything?

Iona Colvin: It is not really my strong point.

The Convener: Do not feel under pressure to comment.

Iona Colvin: The issue is the bit between the operational business and the ability to dispose of the estate and consider opportunities. We are working proactively with our local communities to identify need and we hope that a community asset transfer request would grow naturally from that work rather than come out of the blue.

The Convener: It might be different for a health and social care partnership, which does not own the assets. It is a partnership, after all.

Bruce Kiloh: Part of the responsibility should rest with organisations such as SPT. As I said, certain assets—for example, pieces of land—might appear to be unused but be reserved for

some future strategic transport use, such as a new rail line or new road. There should be a responsibility on organisations such as SPT to be absolutely clear about the future potential uses of an asset when we put information on our websites or when people are looking up a particular asset or checking the assets that an organisation has available. We should also be clear about the statutory basis for that, such as whether it is included in a local development plan, the strategic development plan or our regional transport strategy. I do not pretend to be an expert on property transactions, but I think that there is an opportunity there, so that when community bodies look at our assets, they can see clearly that an asset may appear to be available but has a potential future use for a strategic transport reason.

Richard Davison: We agree that the legislation is right about the point at which an asset is frozen. Much of this is about providing support to communities in developing their ideas and proposals. When we have supported community land buyouts in the Outer Hebrides, we have provided a lot of environmental advice to help those community bodies generate good-quality business plans to oversee the transfer of the assets. We have to build that up.

The other element is that it should not really be a closed process up to the point at which the formal request is made. At your meeting last week, Ruchir Shah called for more openness and transparency, and we agree that that is the way forward.

Sandra Holmes: I have a brief comment. We are involved in a live case where we are seeking to dispose of a commercial asset—it is an example of where public authorities can go beyond what is in the legislation. In the area where the asset is situated there is a very active community landowning development trust, and we have engaged with that trust to see whether it would have any interest in the asset before we enter further discussions on the transfer. There are things that we can do when we know the communities and their aspirations and what the local development plans are. We can be proactive, which goes beyond what the legislation requires of us, and we have embraced that approach.

The Convener: We have eventually reached you, Mr Cowie, so I am sure that we will get a fulsome answer.

Assistant Chief Constable Cowie: Is that the nod?

The Convener: Yes.

Assistant Chief Constable Cowie: I will give you the simple police officer's answer to the question, from my understanding of the

technicalities. On timing, our experience of the past few years is that it takes about 12 to 18 months, beginning from the thought that a property may be surplus, going through the consultation and the governance issues—both internally and with the Scottish Police Authority—and finally disposing of the asset, which, depending on the market conditions, can take a few months or 18 months to two years. Given that the whole process is quite elongated, the guidance on freezing an asset would not be particularly hard to bear.

I suppose that the other question was about best value. I do not want to talk about specific examples, but I have two general comments to make. Some of our surplus estate could bring a certain amount back into the public purse in capital receipts if we sell it as is—for example, as an old building that has not been used for two or three years. In such a case, the developer would buy it, knock it down, get planning consent for a shopping mall or something and reap a huge dividend. However, with a small bit of investment, the SPA could get the planning permission and the market value of the asset would be significantly higher, so the public purse would benefit more.

I have to be careful about what I say about huge capital assets, because some are well known and are still under negotiation. If a developer buys a massive property and makes a huge profit selling it on within a certain time period, a condition of the sale is that some of the money has to come back to the public purse. That is a general comment.

Translating that into an asset transfer request situation, the community body would make the case that there is public benefit to the transfer and make a lower bid than might come in from a private individual or company. We have to consider where that public benefit has gone if, in a couple of years' time, the asset were sold for significantly more. We need to follow that thinking through so as to be consistent in respect of the public benefit. We are not seeking to say no to everything, but we want to make sure that the rationale for any sale is defensible.

Elaine Smith: We need to explore that further to see how such a clause would work for community groups if an asset was sold to them. Who would they pay that money back to if they were to sell the asset later? That needs more thinking about.

I am also concerned about leasing. We have had some evidence that the whole asset transfer process might make leasing more complicated than it is now. Do you have any views on that?

Assistant Chief Constable Cowie: It would be complicated, in that the lease is between parties—who is it leased to and from—and, largely, that would not involve Police Scotland or the SPA; we

lease properties from other people. It would need to be clear to community groups from the asset register that there would be no point in putting time and effort into a bid to lease something that we do not own.

11:30

The Convener: Two members still want to ask questions on asset transfer. We are going to move on to planning in a moment, Ms Maguire, I promise you.

Graham Simpson: My question will be very quick. Last week, we heard evidence that, if a public body is not as engaged in the process as Highlands and Islands Enterprise, it could quite easily wriggle out of asset transfer requests. Do you agree with that?

I have a follow-up question that relates to what Elaine Smith said. She suggested that bodies could make profits. However, what if a bid fails? Who takes on the asset if a community body has taken it on but the whole transfer collapses?

The Convener: Mr Kiloh and Mr Davison were scribbling away furiously while that question was being asked.

Bruce Kiloh: I was just making sure that I did not lose track of the question.

Public bodies have to enter into the spirit of the legislation. I talked earlier about the cross-boundary nature of transport and the strategic nature—and, as we are all aware, the long-term nature—of some of the infrastructure projects that we carry out. There must be an acknowledgement that we will keep an eye on our assets as well as those of other agencies—councils and so on—for the long-term future infrastructure requirements of the transport network, as it could potentially lead to difficulties if they were transferred to community transport bodies.

I do not think that the spirit of the legislation is there for public bodies to wriggle out of it. As other panel members have said, it has to be the responsibility of the organisation to be transparent, open and clear on its website or when it publishes information that it or another agency—Transport Scotland, councils from a transport point of view, Network Rail and so on—may have a future use for an asset. That is the spirit that we must enter into, being as up front as we possibly can be, which is what we generally try to do.

When a transfer to a community body works and it makes a profit, that is for other people to talk about. However, we have discussed before what happens if it fails. Does the responsibility fall back on the agency that sold the asset? Does it fall back on the local council? In the current financial climate for local government, things are

particularly challenging. Notwithstanding the resource implications in terms of staff, as long as there is good communication between the organisations and a clear monitoring of the use of the asset by the community body that has taken control of it, that should work. It is very much wait and see for some of this, and we will have to see what happens in the future.

Richard Davison: I understand the argument about a public body wriggling out of its responsibilities, but there are a couple of things that need to be considered in practice. First, the policy presumption behind the legislation is pretty clear: the process is to support community empowerment and make it happen. We see asset transfer for community empowerment as being very much a force for good rather than a negative, because we want to see more communities looking after the environment throughout Scotland.

Secondly, there might be a bit of an issue around how an asset transfer request is assessed and the criteria that are used. In our case, it is hard to think of an example where we would say no. However, if a community wanted to buy a piece of land in a nature reserve with the long-term aim of planting a lot of trees, which would ruin its purpose as a nature reserve, that might be a legitimate reason to say that, in that form, the project was not doable. I would not class that as wriggling out, though; it would be an honest assessment of the implications for why the land was an asset in the first place.

The Convener: Are there any other comments?

Sandra Holmes: I will be brief. In terms of wriggling out, the default position is to agree to the request unless you have justified reasons not to. The process is open and transparent.

There is also a robust appeals process built into the legislation. If the community organisation is not satisfied either because it has been rejected or because it does not agree with the terms and conditions under which the asset is being offered by the public authority, it can appeal.

It is important to realise and accept that failure will happen, although it has not been a regular occurrence in community asset ownership projects. If the asset goes into community ownership and the community organisation suffers some form of failure, what would happen to the asset really depends on how the organisation is constituted in its governing documents. Once all the liabilities are dealt with, and depending on what is in the constitution, the asset will usually transfer to a similar organisation. If the organisation has been set up to comply with various parts of the Land Reform (Scotland) Act 2016, ministers would have a role in determining what that organisation might be. The organisation

will be no different from any other organisation—it will have dissolution clauses and the assets will have to be accounted for.

Failure is not a regular occurrence, but that is not to say that it does not happen.

Graham Simpson: What if there is not a similar organisation to step in?

Sandra Holmes: It depends on how the organisation is set up, but sometimes the default position is that it could fall back to the Scottish ministers.

The Convener: We can ask for more information about that when we have the minister here.

The final question on asset transfer—even if it provokes further questions from members before we move on to something else—is from Andy Wightman.

Andy Wightman: I have a brief question on registers of land. Under section 94 of the 2015 act, you have a duty to

“establish and maintain a register of land”.

Is everyone on time to do that by 23 January? Are there any issues around that?

My second question is specifically for HIE. You have leased the Cairngorm estate to a company called Natural Retreats since 2014. In that context, was there any attempt to do an asset transfer?

The Convener: You can answer that question last, perhaps, as we did with Mr Cowie. The first question was a more general question about the register of land.

Richard Davison: Yes, we are on track for completing that.

Bruce Kiloh: Yes.

The Convener: Just for the record, I see nodding heads. Iona Colvin, this might not apply to your organisation, because it does not hold assets.

Iona Colvin: I am also a director of the health board and of the council, and the answer is yes for both.

The Convener: Depending on what hat you are wearing, the answer is yes.

Iona Colvin: Yes—unless it is the integration joint board hat, in which case the answer is that it is nothing to do with me.

The Convener: That is helpful.

Assistant Chief Constable Cowie: Yes, we are also on track with that.

The Convener: I am sorry; I thought that Sandra Holmes would have more time to craft an answer.

Sandra Holmes: I was not close to the lease, Mr Wightman. The land that we have at Cairngorm includes the funicular. We are quite a localised organisation and we have local area teams, so the local team will have engaged with the local community.

From memory, I do not think that there was any desire from within the community to get involved in taking on the asset and delivering it. I will check that and come back to you with more detail.

Andy Wightman: Thanks.

Ruth Maguire: I would like to hear a bit about part 2 of the act—the community planning aspect of things. I welcome the forthcoming specific focus on tackling inequality. I guess that that will sit more comfortably with some organisations than it will with others, so I am keen to hear your thoughts on that.

I imagine that, around the country, CPPs will be at quite different points and there might still be a need for a bit of a culture change in some of them. I would like to hear your reflections on whether there is a need for more clarity around accountability and performance among partners in the CPP.

The Convener: Who would like to start us off? Mr Davidson, you are making eye contact with me.

Richard Davison: Yes—at the wrong time. *[Laughter.]*

Especially in urban community planning partnership areas, where a lot of inequalities exist, you might wonder why Scottish Natural Heritage wants to be involved, but we see urban populations and improving access to good-quality nature and green space as being vitally important to reducing some of the inequalities to do with health and physical activity, for example. We welcome the focus on inequalities.

That is not without challenges for an organisation such as SNH, given that much of our staff resource and funding are outwith urban areas. However, we are moving towards our European regional development fund green infrastructure project, which is looking at ways to improve the quality of green space in some of the poorer areas in Scotland.

Although we were not a statutory community planning partner until the new act came in, for a long time we have recognised the value of getting involved in community planning partnerships and trying to put the environment into their thinking, agendas and priorities. It is not necessarily about getting an environmental outcome in a LOIP, a

locality plan or a single outcome agreement; it is basically about showing how nature can help to deliver health benefits.

Even without being a statutory partner, we have been engaged to a greater or lesser extent with about 15 community planning partnerships out of the 32, either through groups or as full members of the CPP boards. We would expect that to increase steadily over time as the governance core of the CPPs starts to bring in what are now statutory community planning partners. We are ready to support that.

Bruce Kiloh: It is very much accepted that transport can play one of the main roles in tackling inequality and ensuring that the most deprived areas of our communities can have the same access to opportunities as others. That is something that SPT is continually focused on, particularly when bus services might be withdrawn and there are no services after 6 o'clock or at the weekend. That can sometimes be a very local issue, but it can also have an impact on the much wider transport network. Again, I make a plea for an understanding of the strategic regional and cross-boundary nature of transport. Just like inequality, transport does not observe local authority boundaries, wards or whatever locality areas we are talking about.

I am told that, so far, there are about 30 local outcome improvement areas across six councils in the west of Scotland. We would be looking at providing a regional response to some of that so that people can get the bigger picture of what is happening in the wider area, as well as specifically in their local area.

With regard to community planning, as with anything, there is always an opportunity for greater transparency and accountability. We have benefited from community planning. I was talking about this with Iona Colvin earlier, because there is dialogue going on between our organisations about improving transport access to healthcare in her area. That is the type of thing that comes out of community planning—as long as it is followed up and there is a formal process to ensure that the action is taken forward.

The committee will be aware that, over the past two or three years, one of our big things has been the west of Scotland community transport network, which is a hugely useful way of adding to the transport network, particularly for those deprived areas. It is very community led and something that we have been able to promote and really sell at the community planning partnerships across the west of Scotland. The west of Scotland community transport network is the first of its kind in Scotland, and it sets the standard that we expect from community transport operators and allows us to invest in them.

Huge opportunities have come out of community planning and we can build on those for the future. SPT will most certainly try to do that.

The Convener: Iona Colvin was namechecked there. Do you want to add anything?

Iona Colvin: It is a good example and I really welcome this approach. I am not trying to teach granny to suck eggs, but in health and social care we are often dealing with the consequence of inequalities, and one of the things that we are doing with the integrated joint board and in partnership with community planning is highlighting the consequences of those inequalities for our communities. In areas such as North Ayrshire, East Ayrshire or even South Ayrshire, those consequences are quite different in the individual communities.

11:45

For example, there is an area in which one part of the community is relatively well-off and lives longer while, in another part, people suffer ill health for long periods of time. That has meant that the demand on health and social care has been phenomenal and the increase in demand over the past couple of years has been remarkable.

Part of the work of the community planning partnership is about unearthing that and showing it for what it is, and working with other community planning partners to see what they are doing about it. After all, it is not just about health and social care responses; it is about transport and people getting jobs, because we know that, generally, when people get jobs—although there is an issue with low income—their health and wellbeing improves, as does the health and wellbeing of their children. It is also about childcare, education and attainment. It is about all those things.

In North Ayrshire, we have developed fair for all, which is an inequality strategy that puts a demand on all the community planning partnerships to look at our issues through an inequality lens to see whether an action is going to make things better or worse for people. Is the situation going to be improved for people who are the worst off and the most excluded in the area? In an area that has suffered badly through the recession, how will we shift the position of people who are experiencing the worst of the inequalities gap?

Sandra Holmes: The inclusion agenda is very relevant to the work of HIE. We look at the disparity of opportunity across our region, particularly in the more remote and rural communities. Often, inequality is about a multitude of factors that are very deep rooted, and we cannot overcome those issues in isolation, as has

been mentioned. Community planning can make a big difference by focusing on inequalities.

HIE does not tend to engage with individuals or service users who are at extreme risk, but we contribute to the wider environment to create better and wider opportunities to bring people out of disadvantage through employment, social enterprises and so on.

Assistant Chief Constable Cowie: As the person responsible for policing from Perth northwards, I echo Sandra Holmes's comments. My perspective is that rural deprivation can be different from urban deprivation but just as impactful. As we take forward locality planning, that is a difficult challenge, because the definition in the act talks about 30,000 people. If you take the example of Shetland, people there feel that the more remote islands are the most unequal locality and the one with the poorest outcomes. Those islands have nowhere near 30,000 people, but their inhabitants still feel that the principles of the act should be used to address that.

The vulnerabilities focus of Police Scotland will pick up and emphasise outcomes and inequalities. After all, 80 per cent of calls to us are not related to crime—they are about vulnerability, whether that is missing people, mental health or repeat victimisation. Vulnerability and inequality are very much in our sights.

The second part of Ruth Maguire's question, if I recall correctly, was about accountability. As you would expect for a hierarchical organisation, accountability is one of our watchwords. I will anchor that in an example in Perth and Kinross, where five localities have been identified within the community planning partnership. The local community planning partnership has been renamed as an action partnership in order to focus everybody's minds on what it is about, which is action, rather than talking about action.

One of our local chief inspectors is responsible for chairing one of the action partnerships—it is not a police-only function; it extends right across the board. It is working with the community choices fund, which receives funds from the Government that are matched by the local authority, so it is doing participatory budgeting. Our locality team is involved. Identifiable officers—from constable to sergeant to inspector—are named as being accountable for taking forward some of those actions. That is developmental for our staff, and we think that that is what our organisational effort and energy should be focused on delivering. That is just one example—we could give you many more from around Scotland.

Ruth Maguire: Thank you for those answers. I just want to come back to the rest of the panel on the point about accountability and performance

and hear whether they think that there is a need for a bit of clarity around that. It is good to hear that everyone is working well and to hear the good examples of where that is making a difference. However, on that specific point, do you think that more is needed, or are you comfortable that the public would be content with the arrangements as they are?

Iona Colvin: The outcome for improving on inequality sits with the health and social care partnerships and is a national outcome against which we are measured. It has always been one that has troubled me somewhat. As I said earlier, although there are things that we can do through health and social care, particularly through health improvement activities, they very much need to be done with other public bodies. We are looking at how we align those outcomes in relation to the LOIP to ensure that the outcome on improving on inequality sits with the wider community planning partnership as well as with health and social care.

It is not that I am trying to duck the outcome, because I am not. However, we know that more jobs in North Ayrshire will make a greater difference than more healthcare. There needs to be a very clear focus, though, and it is not an easy area to tackle as the research is mixed. However, we know that if we take action in certain areas, we will make a difference. That has been the focus in North Ayrshire and probably also in East Ayrshire. Some of it is about transport—what we do around roads and transport has been proved to make a difference to the inequalities agenda. The issue of jobs, which I mentioned, is important, as is the position of women and the issue of childcare, which the Government is trying to tackle just now and which obviously makes a difference.

I welcome the fact that we will all have some responsibility for the incorporation of some individual outcomes in the wider outcomes for the community planning partnership.

The Convener: Iona Colvin happily signposted Bruce Kiloh during that answer. I wonder whether he has a comment in relation to accountability.

Bruce Kiloh: Absolutely. The need for accountability has never been greater, given that there is probably less resource available now for local government. Partners such as our organisation, working with colleagues such as Iona Colvin in health boards and councils, need to maximise the return for our investment. For example, our budget for supporting local bus services has remained broadly static for the past few years at about £12 million a year. It is still a significant amount of money, but we have done various things to try to make it stretch further, and we now have the facts and figures to back up what we have been doing. For example, our MyBus service, which is our demand-responsive transport

service, has more than half a million passengers a year and is easily the most popular DRT service in Scotland and one of the best in the United Kingdom. That shows the demand that is out there, and we can see that much wider benefits come from that service. The people who use our MyBus service are getting out and about to the shops or the bingo, for example, and are doing various other things that have a huge impact on their mental and physical health and their ability to socialise with people. Perhaps we could do more work to achieve further improvements in that sense from the impact of transport.

Earlier, I mentioned the argument that transport is good for reducing inequality. I think that that argument has been won, but we need to move it to the next stage and start to look at the wider impact of transport on our communities. It is a derived demand, because people want to go to a place to do something. The question in relation to our provision of transport for access to healthcare is what positive benefit it has beyond just getting somebody to the place that they are going to. There could be improvements in that area from greater monitoring of accountability and performance.

The Convener: Richard Davidson and Sandra Holmes have not responded to the question. Please do not feel that you need to, but do you want to add anything?

Richard Davison: The only thing that I would add is that the benefit of the changes in the Community Empowerment (Scotland) Act 2015 is that they broaden the range of organisations that are classed as statutory community planning partners. I think that there will be a period during which existing community planning partnerships come to terms with that and bring in those wider partners. As I mentioned earlier, we are already heavily involved with some community planning partnerships, but we have had little if any involvement with a number of others.

I suppose that one of the tests from our point of view is how the relationship or arrangement changes over a period of time, but I do not think that that needs formal review to be built in. It will be picked up over time, I would have thought.

Sandra Holmes: Responsibility for community planning is now shared across all partners, which supports accountability, but it is also important to note that, under the outcome-focused approach, community planning partners will have to set out the difference that they intend to achieve under one, three and 10-year cycles and to report on progress towards that. That is a helpful way to demonstrate accountability as it involves active monitoring and reporting back on step changes to ensure that things are still on track for delivery of the outcomes.

The Convener: We are coming to the end of our time, but there is a further topic that I think that we should ask about because it was a theme in last week's evidence session, and that is participation requests. We could ask a number of questions about that, but we will not ask all of them because of the time.

There is a feeling that there needs to be a structure to participation requests but that we have to be careful that there is still flexibility in the system. Lots of groups and organisations are already working well with organisations such as the ones that are represented on our panel today, and we would not want participation requests to be seen as so rigid that they exclude or dissuade organisations or community groups that are already in the system from participating.

I suppose that, if we were to be cynical about it—not that I am being cynical, of course—once participation requests are so structured, if a certain organisation or group does not follow the rules as they are rigidly set out, participation can be denied to them. Any comments that you have on how bodies such as yours should handle participation requests and the regulations and guidelines that will be coming into force would be welcome, because they will tie in with last week's evidence.

Bruce Kiloh: As you say, the principle of participation requests is difficult to deny. I return to the point that we are a regional strategic organisation that covers 12 council areas and 2.14 million people. Within that, there are about 81 active community councils in one local authority area, which is Glasgow. You will be aware of the major projects that we have been involved in over the years, including smart-card ticketing, subway modernisation and Fastlink. If a series of participation requests came in, it could be overwhelming, given the resource that we have and the staff time that would be required to assist those people in participating. That impact is our biggest concern.

As I said with regard to locality planning, we will seek to find a way to work with organisations, perhaps on a regional basis through another forum. When we consult local communities directly, for example on subway modernisation and the accessibility impacts for disabled people, we try to work with them in ways that suit them and also us, and we will try to use that approach in dealing with participation requests. We engage with local communities all the time, but we would be fearful of an overwhelming number of participation requests coming in for particular projects. I think that we would seek to deal with them on a regional basis.

The Convener: Before I bring in the other witnesses, I note that this will be—you might be relieved to hear—your last opportunity to make a

comment, so if there is anything else that you want to draw to the committee's attention, now is a good time to do it, as we will wrap it up in the next few minutes. I will bring you all in whether or not you want to comment on participation requests, because this will be your final chance to make a comment to the committee.

12:00

Richard Davison: To a large extent, the change actually increases the pressure—although that might not be quite the right word—on public bodies to take informal approaches and engage much more with communities on the services that they provide. At the end of the day, part of me thinks that, if community bodies have to go through the full process of submitting a participation request, there may be something not quite right in how the services are designed and delivered in the first place.

Our approach is about being more positive and proactive at the informal end. I will illustrate that with an example. The Scottish Government has asked us to lead the implementation of the route map for the Scottish biodiversity strategy to 2020. We are aware that young people are quite disengaged from biodiversity issues, so we have been working with Young Scot on setting up a national youth advisory panel to guide us on what would work from its point of view, what connections should be made between young people and biodiversity, and how we improve outcomes for young people from that work. That has not required a formal participation request but it is an example of how public organisations must work more creatively and imaginatively with communities.

I have one final point, which goes back to community planning. One of the things that we would look for from community planning would be a place-making approach that combines at a local level what is being done through community planning and spatial development planning. There is a real advantage in bringing those elements closer together.

Assistant Chief Constable Cowie: Evidence from the Christie commission shows that the more that we involve people in decision making around service design and delivery, the better it is. That applies to everything from community resilience and dealing with flooding right through to the routine stuff. We are keen to do that both externally and internally with our own staff. Having come through the trauma of a merger, we are now emerging on the other side and driving forward. We want to empower our staff to be more involved with their communities. We already have constables going to community councils to give

reports and take feedback, and we see the new approach as just another aspect of that.

To pick up an earlier point, participation requests may come in if a service is seen to be failing to deliver outcomes. There is already a fairly broad church of people participating at a local level. We have to be very careful—that is where accountability and the annual report comes in—to look at whether we are actually delivering the service in question. We are absolutely comfortable with the change, and we see it as a big opportunity for us as we move forward.

Sandra Holmes: HIE feels that we do a lot already on participation requests, but we can always do more. We are very connected to our communities—we have a strong local presence, so people can engage at a local level with someone whom they may know already. Many of our communities are already very empowered, and the test for us will be to see how participation requests can reach out to some communities that perhaps feel less able to engage in the process.

On the point that it would be a shame if participation requests made the process more complex, we find that it is all about having constructive dialogue and taking an approach that is appropriate for a community, and taking steps to ensure that we make that easy and transparent for everyone.

Iona Colvin: I would love to say that we are working so well with our communities that we will anticipate all participation requests. However, given that the new guidelines apply to communities of interest as well as geographical communities, it is inevitable that there will be some conflicting views at some point. For example, we have just consulted on changes to learning disability services, and we have heard very different views expressed by younger parents and older parents of young people with learning disabilities about the types of services that should be available and the approach that should be taken. It is likely that there will be some disagreements. The issue for us is how we deal with those as transparently as we can, and we need to set out that process transparently. Everybody needs to feel that their view has been heard.

We need to work on and think through quite quickly the interface between the Public Bodies (Joint Working) (Scotland) Act 2014, looking at the desire to include the people who use and provide health and social care services, and the Community Empowerment (Scotland) Act 2015, so that we merge everything together.

The Convener: I thank all our witnesses. On Iona Colvin's point, time has defeated us just now—it has just gone 12 o'clock—but please do

contact us if you want to present any more information in that regard. Indeed, I make that offer to all the witnesses, as we are continuing to take evidence on statutory instruments relating to the Community Empowerment (Scotland) Act 2015.

Before we move into private session, I put on record that, on 30 November, as part of its further consideration of the statutory instruments, the committee will hear from the Minister for Local Government and Housing, Kevin Stewart. I thank you all again for your attendance this morning. We now move into private session.

12:05

Meeting continued in private until 13:03.

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