



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government and Communities Committee

**Wednesday 6 December 2017**

**Session 5**



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**LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE**

**30<sup>th</sup> Meeting 2017, Session 5**

**CONVENER**

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

**DEPUTY CONVENER**

\*Elaine Smith (Central Scotland) (Lab)

**COMMITTEE MEMBERS**

\*Kenneth Gibson (Cunninghame North) (SNP)

Jenny Gilruth (Mid Fife and Glenrothes) (SNP)

\*Graham Simpson (Central Scotland) (Con)

\*Alexander Stewart (Mid Scotland and Fife) (Con)

\*Andy Wightman (Lothian) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Douglas Black (Unison)

Tony Cain (Association of Local Authority Chief Housing Officers)

Robert Emmott (Comhairle nan Eilean Siar)

Mark Ferguson (Unison)

Alastair MacArthur (Renfrewshire Council)

David Stewart (Scottish Federation of Housing Associations)

Bill Thomson (Commissioner for Ethical Standards in Public Life in Scotland)

**CLERK TO THE COMMITTEE**

Jane Williams

**LOCATION**

Committee Room 4



# Scottish Parliament

## Local Government and Communities Committee

Wednesday 6 December 2017

*[The Convener opened the meeting at 09:52]*

### Draft Budget Scrutiny 2018-19

**The Convener (Bob Doris):** Good morning and welcome to the 30th meeting in 2017 of the Local Government and Communities Committee. I remind everyone present to turn off mobile phones. As meeting papers are provided in digital format, tablets may be used by members during the meeting.

We have received apologies from Jenny Gilruth, who unfortunately is not able to be with us this morning. Andy Wightman may have to leave from time to time to honour his commitments with another committee—he means no disrespect to the witnesses if he has to go and deal with his commitments elsewhere.

Under agenda item 1, the committee will take evidence on the Scottish Government's draft budget 2018-19. I welcome Tony Cain, policy manager at the Association of Local Authority Chief Housing Officers; David Stewart, policy lead at the Scottish Federation of Housing Associations; and from Unison Scotland, Douglas Black, who is secretary to the local government service group, and Mark Ferguson, who is chair of the local government committee. You are all very welcome.

There are no opening statements. I will say something briefly about housekeeping: I apologise to our Unison representatives if we dwell on housing at the start of our evidence session—of course you should feel free to contribute to that discussion—so I ask for a degree of latitude and patience.

I start with a very general question. I am just back from a breakfast briefing on cuts to local authorities. The Scottish Parliament information centre and partners at the University of Glasgow and Heriot-Watt University have done an analysis on local government. It appears that there is not a cuts-based agenda for the housing association movement and registered social landlords, including local authorities that are in the business of building and subsidising housing. How do our housing representatives feel about the financial environment—certainly in the past financial year—in terms of the affordable housing budget for Scotland?

**Tony Cain (Association of Local Authority Chief Housing Officers):** It would be wrong to say that reductions in local authority resources have not had an impact on housing functions in councils. Activity that is funded by rents remains as robust as the housing revenue account business plan and the capacity of tenants to pay rents to fund services. Non-HRA services, particularly homelessness, support and social care services, have all seen reductions in capacity. That has an impact on the clients in council housing, and therefore on the housing service.

Significant issues are starting to arise in strategic capacity. Understandably, councils are focusing on preserving front-line services and looking at corporate or head office and backroom functions. That has led to a thinning out of senior and strategic management within organisations, a reduction in the ability to plan, and a spreading of the focus of many senior officers.

**The Convener:** That is helpful and ties in with evidence that we have heard on other parts of the local authority budget. However, we are specifically asking about the affordable housing investment programme budget, both in the past financial year and going forward. I assure Mr Cain that there will be plenty of opportunities to put the challenges to local authorities on the record, but the committee has to get balance. Is the affordable housing budget at an appropriate level? What is the trend in that budget?

**Tony Cain:** The affordable housing budget has grown substantially in the past couple of years. It is broadly sufficient, within the current grant regime, to meet the target. The focus is on meeting the target. I do not think that you will hear evidence that there is not enough money in the affordable housing programme to deliver the commitment to 50,000 affordable houses or the social housing programme. We are confident that the resources are there.

**The Convener:** That is helpful. The first part of your answer was important because, if you feel that there are challenges in terms of the number of senior officers in local authorities who can work in partnership with the housing association movement to direct and shape that budget, that is an appropriate thing to put on the record. If the budget is of a good quality in terms of getting back in the business of building significantly more social rented and affordable homes, but there are challenges getting senior officers to direct that at local level, it is appropriate to put that on the record.

**Tony Cain:** Absolutely. The Scottish Government's commitment of £3 billion over five years is huge and very welcome. The sector is working hard to deliver the target of 50,000 affordable houses. Other than the need to

continue the conversation on differential grant rates between local authorities and housing associations, I do not think that anybody is expressing any substantial concerns on the amount of money committed by the Scottish Government to the affordable housing programme at this point.

**The Convener:** Your previous comments are genuinely helpful; I just need a balance to the evidence.

**David Stewart (Scottish Federation of Housing Associations):** The target of 50,000 homes and the commitment of £3 billion are very welcome. The target was based on solid evidence, including a report by the SFHA, Shelter and the Chartered Institute of Housing on the outstanding need for affordable housing in Scotland. It is very positive that the levels of subsidy increased after the 2015 subsidy working group review. It is very good that there is an assumption of three-year resource planning that allows local authorities and housing associations to plan for the long term and commit to the programme. That is good news. There are some challenges in ramping things up to actually meet that commitment, but the level of funding is very welcome.

**The Convener:** Would other recipients of the wider local authority budget not bite your hand off for the certainty of multiyear funding? That appears to be what local authority housing and the housing association movement have. Does that help you to plan ahead in relation to affordable housing programmes?

**David Stewart:** I would certainly say so.

**Tony Cain:** The answer to that question is yes, absolutely. It is worth noting, however, that although we have three years' worth of resource planning assumptions, councils have just submitted a five-year strategic housing investment plan. The last two years of the submitted plan are speculative in terms of the resources available. We have resources for only three years.

We are already planning for years 4, 5 and 6, but we do not know what those resources will be. In our submission, we said that we need to move to a much longer timeframe for planning new affordable housing and housing supply. However, it would be churlish beyond belief to complain about our current position and the resources that have been committed to the programme.

10:00

**The Convener:** That is helpful. We asked the committee's clerking team to pick out things from the evidence that we could scrutinise. ALACHO's submission said that a number of aspects to the

housing programme needed to be addressed. Point 2.7 of that submission says that

"there is no clarity about what overall objective intervention in the housing market is intended to achieve or what a properly effective housing system would look like."

It would be helpful if you could elaborate on that.

**Tony Cain:** We work with a numbers target. The target is 50,000 affordable houses. What is the connection between an additional 50,000 affordable houses, or an additional 35,000 social rented houses, and our expectations on homelessness and housing need more generally. What impact will that have on waiting lists? What will the economic impact be, beyond simply jobs in the construction sector? What will the impact be on fuel poverty, child poverty and other aspects of that agenda? None of those questions is fully worked through in a full rationale for the affordable housing programme. We work on the assumption that more houses are good. We do not go beneath that and ask what we really expect the impact of that scale of expenditure to be.

We also make that point because this year we will arrive at 31 March 2018 with more social rented houses than we had on 1 April 2017. That is welcome, but we have not done that since 1981—more than 30 years ago. Once you start to grow a sector, you have to ask: "How many is too many?" We have not had to ask that question for 30 years either. We are probably moving to a phase where a more sophisticated conversation about the purpose of investment in affordable housing is needed.

**The Convener:** I accept all that, but I am a little confused—I assure Mr Cain that that is easily done. My understanding is that each year local authorities do a housing needs assessment that feeds into a strategic housing investment plan. You say that you are not quite sure what that would look like. Is it not the job of local authorities to decide what that would look like? You have now been given significantly increased moneys to deliver on that. Given that that is the process that local authorities need to go through—at least that is my understanding—in partnership with the housing association movement, what would a properly effective housing system look like? Why are housing needs assessments and SHIPs not delivering on that?

**Tony Cain:** They are delivering on the relatively narrow purpose of planning an investment programme, which is driven by numbers. What is the definition of a properly functioning housing system in Scotland and how does that differ between Glasgow, Edinburgh, Moray, Aberdeen, Inverness and the Western Isles? At national level, I do not know whether we have a clear understanding of what we are trying to achieve.

**The Convener:** We will ask the Minister for Local Government and Housing that question when he appears before the committee. I get the fact that the SHIPs are numbers driven because you know the envelope—the money that is available for a minimum of 35,000 social rented houses, which goes up to 50,000 when a mix of other affordable housing is added.

However, the housing needs assessment at a local level is not numbers driven; it is a housing needs assessment. Do local authorities know what that would look like? There cannot be a uniform national programme, by definition, when each local authority area has very different dynamics, as you have said. That is why it is localised to local authorities, with housing needs assessments feeding into SHIPs, which I fully accept are numbers driven. What more can local authorities do to create a proper and effective housing system?

**Tony Cain:** I would not put that entirely at the door of local authorities. A national conversation about what a properly functioning housing system looks like is needed. For example, what is an appropriate balance across the tenures? Is the private rented sector fully affordable across the whole of Scotland? Are we content with what is being built by the speculative construction sector, in terms of size, number and distribution types? Are we happy that the right number of houses are being built to meet the needs of older people and people with disabilities? Those are all questions that are not clearly answered, either locally or nationally. Locally, we deliver a programme within our financial envelope, based on the opportunities that are there.

We do not necessarily say, “We think that X per cent of the local stock should be in social renting, X per cent in private renting and X per cent in owner occupation.” That is not the sort of conversation that we have. As a consequence, we live in a world where in East Renfrewshire, for example, 12 per cent of the stock is in social renting, whereas the figure in West Dunbartonshire is 37 per cent. Which of those is right—or the nearest to being right?

**The Convener:** Again, you are just adding to my confusion, because I thought that it was the job of local authorities, not national Government, to carry out housing needs assessments and then feed into a SHIP programme, which I fully accept is driven by the numbers and capital expenditure. It is then for the housing minister to deal with the transition from the sorts of things that I thought were fleshed out in a local authority’s housing needs assessment—the number of large family homes, disabled homes and other kinds of homes that are needed, the mix of tenure and so on. Perhaps our committee needs to understand what

these assessments do or do not do at local authority level as part of that wider national housing strategy.

**Tony Cain:** It is part of that effort, but I do not think that you will find a housing needs assessment anywhere in Scotland that says that the private rented sector should double in size or that new house building should decline by 45 per cent over the next 10 years or that the cost of housing of a particular type should rise at its current rate. Generally speaking, those things are not part of that calculation—it is an overview of how the system works.

If we accept, as many folk do, that the housing system is not functioning fully effectively—indeed, others have said stronger things about it—we need to ask what a Scottish housing system that functioned fully effectively would look like. I do not think that you will answer that at local authority level; it needs to be discussed and worked through at national level. I am not suggesting that it is solely the responsibility of the Scottish Government to answer the question—I am simply saying that we need to have a more sophisticated conversation about what we are trying to achieve in housing.

**The Convener:** I promise that we will ask the Scottish Government those questions. I have to say that I did not expect to get involved in this interaction, but I have genuinely found it quite helpful. Do we need to improve housing needs assessments at local level so that we tease out some of these things and start to tie a national strategy together?

**Tony Cain:** I do not think that the housing needs assessment is the weakness. It is as sophisticated now as it has ever been. When I started working in housing planning, we used prevalence rates; in other words, we said, “There are a certain number of certain situations in the population as a whole, so we need X houses to meet them.” It was a fairly crude approach, but it was as good as we had. The approach that we have now is more sophisticated and fit for purpose in exactly the same way.

However, we are not answering the big strategic questions. For example, when is enough enough? When will we have enough social rented houses? We are going to build 35,000, but how many do we need over the next five years?

**The Convener:** I am still not sure what is stopping local authorities making those decisions.

**Tony Cain:** Local authorities did not set the targets.

**The Convener:** Hang on—I think that we are missing the point. It is for local authorities, irrespective of the national target, to decide on

their housing needs; they have been democratically empowered to deliver on housing in their areas. I think that we will all agree on that, and we also appreciate that it will feed into a SHIP system, which is driven by numbers and capital and depends on funding from central Government.

The issue that I want to tease out—and I am going to let this sit and bring my colleagues in to ask supplementaries—is that local authorities are big enough and capable enough to take a view on the mix with regard to public and private sector housing or buy-to-rent, sublet or new-build properties without having to wait for national Government. That is what I thought housing needs assessments did, and if they do not, perhaps they should. My question, therefore, is, should they?

**Tony Cain:** Housing needs assessments are part of a framework that does particular things. I suspect that if you look at the outcomes of assessments across the 32 councils you will see conclusions being drawn on the need for affordable housing that are substantially in excess of the local land supply or the SHIP programme. The translation of the housing needs assessment into land supply, which happens through the planning system, invariably leads to a substantial reduction in the total number of houses that are assessed as required.

**The Convener:** I get all that, but I do not think that that was an answer to my question. Should housing needs assessments lead to localised decisions on the tenure mix and profile?

**Tony Cain:** That should be part of the local housing planning system—

**The Convener:** And it is not at the moment.

**Tony Cain:** No.

**The Convener:** That is all that I wanted to establish. That mix is part of a national framework, but there is not a national setting of targets for local authority areas, and there is nothing to stop a local authority making such decisions just now. I just wanted to check that.

**Elaine Smith (Central Scotland) (Lab):** Thank you all for joining us. I want to pursue something that Mr Cain said this morning. Are local authorities doing equality impact assessments on the strategic housing plans? If they are not, how can they take steps to address any emerging inequalities?

**Tony Cain:** I confess that I have not searched all 32 websites, but it is a statutory requirement, so I would expect equality impact assessments against SHIPs to be published along with the SHIPs.

**Elaine Smith:** What steps do you think local authorities will take to address the emerging

inequalities that might come out of those assessments?

**Tony Cain:** It would depend on the local environment. I would expect local authorities to identify and focus on particular equalities impacts. For example, they might identify a gendered equalities impact on survivors of domestic violence and look at how they would improve the provision for that particular group. They might look at young people. They will certainly look at older people and people with disabilities.

Invariably, local authorities will plan to deliver at a level that is below their measured need. Measured need for wheelchair-accessible housing is substantially in excess of what the programme will produce in the next three years.

**Elaine Smith:** We might come on to that topic with you later. You mentioned domestic abuse, which I am particularly interested in. Are you aware of any progress being recorded on the housing needs of survivors of domestic abuse?

**Tony Cain:** I would struggle to quote any. However, I know that there is a live conversation in the housing sector, and certainly in the policy circles that I am involved in, about the extent to which our response to domestic abuse is adequate, sufficient and as sophisticated as it should be and on whether we need to move to a different approach on a range of issues. That conversation is starting.

**Graham Simpson (Central Scotland) (Con):** I have a quick follow-up question for Mr Cain.

**The Convener:** Other witnesses are available. We will get to you, I promise.

**Graham Simpson:** You said that SHIPs are not the problem. What is the problem?

**Tony Cain:** The problem is that we have a relatively narrow conversation about what we are trying to achieve in the world of housing. For 30 years, that narrow conversation has been dominated by questions about tenure, and the received wisdom has been that everybody really wants to own their own home and that it would be best for everybody if they did—to put it crudely.

We are moving to a slightly more sophisticated and nuanced understanding of tenure, but we have not yet turned that into an understanding that, actually, the current levels of owner occupation are probably unsustainable, the prices are too high and many people are left without a choice because of the absence of genuinely affordable alternatives in every community area. Social housing still exists in a relatively narrow range of locations and not in every location where people might want to live. We need to have a different conversation about how to balance that out.



**Graham Simpson:** The convener focused his questions on councils. Are you saying that something needs to happen nationally? If so, what needs to happen?

**Tony Cain:** I did not come here with the expectation of being asked to pull out a prescription for a future housing planning and delivery programme.

**Graham Simpson:** You raised the issue, Mr Cain.

**Tony Cain:** I certainly did. I think that we need to have a conversation about what we think a properly functioning housing system looks like. What ought to be the balance between owner occupation, private renting, social renting and other forms of affordable housing? How do we understand the choices that people are making and what the access routes are, and how do we reflect that in the supply?

The best example of a relatively narrow provision might be around young single people. We often think that, in the world of social housing, one size fits all—it is a council house or a flat. We have not yet had the conversation about whether that meets the needs of young folk in particular.

For older people, by contrast, we have a variety of different housing types, including forms of shared accommodation that are useful in addressing issues such as loneliness and which help in the provision of support. Those problems exist for young single people too, but we still insist on a relatively narrow offer for them. We need to have some of that conversation.

**Graham Simpson:** Do you mean young professionals who are just starting out and cannot afford to buy their own homes even if they want to?

**Tony Cain:** That is one group, but the most clearly established route from home to independent living is through education where university student accommodation is available. For the privileged group that takes that route, the way is relatively clear. They get a chance to fail and experiment without too much difficulty.

For the cohort of single people who do not go to university and go to college instead, and who do not want to or cannot live at home, there is not an obvious route when it comes to thinking about and making choices in their housing options.

**Graham Simpson:** I know that the convener wants to move on to other subjects.

**The Convener:** Yes. Do not worry—we are moving on, although we could certainly could ask questions on that all day.

10:15

**Kenneth Gibson (Cunninghame North) (SNP):** I am pleased to say that Tony Cain has answered what was going to be my first question, so I will move on.

In paragraph 3.11, the SFHA submission says:

“There is also a question as to whether sufficient housing is being developed in rural and remote communities. Recent research by ... Rural Housing Scotland found that rural Scotland was not getting its fair share of affordable housing investment and that the problem was particularly acute in remote areas – although particular funds have been set up for rural and island communities to help address this.”

How useful has the rural and islands housing fund proved to date? I ask that question because I have two islands, Arran and Cumbrae, in my constituency, as well as a rural hinterland in North Ayrshire.

**David Stewart:** The fund has proved very useful. I was at a recent round-table event at which we looked at whether enough funding was going to rural communities and whether they were getting their fair share. While there is research that suggests that there may not be a fair share of funding for the 50,000 affordable homes going to rural and remote communities, it was acknowledged that the rural and islands housing fund has been helpful.

**Kenneth Gibson:** Other than that fund, are there other ways in which we could encourage investment in rural housing?

**David Stewart:** The research that I saw suggested that, over the past five years, there has been less investment in rural areas. Perhaps a conversation between the Convention of Scottish Local Authorities, the Scottish Government and housing associations could tease that out and see whether there needs to be a change in where investment goes. The 50,000 affordable homes target and the commitment of £3 billion are very positive steps, but there will be questions about whether enough of the money goes to housing for older people or people with particular needs, and whether enough goes to rural communities. As SHIPs come in and are built on as they are delivered each year, there might be an opportunity to make sure that a fair share of the investment goes to those different areas.

**Tony Cain:** The difficulty in the way in which the housing planning system works was raised at that session. In order to qualify for investment from the affordable housing programme, you have to demonstrate housing need. If your objective is to promote population and community growth and economic activity, you might struggle to demonstrate that there is anybody needing a house in the more remote rural communities at that moment. Therefore, you will struggle to

secure investment through the affordable housing programme.

ALACHO's submission talks about the Scottish Government's commitment to

"Repopulating and empowering Scotland's rural, coastal and island communities".

You must demonstrate that there is a housing need from the existing population before you receive investment in new housing. The island of Ulva has six residents. There were 600 previously. Ulva is keen to grow its population but it would not qualify for any investment for affordable housing through the affordable housing programme because it would not be able to demonstrate any need on the island—only six people live there. How do you square that?

Going back to some of our earlier conversations, I think that there is a need to look again at how the affordable housing investment programme is connected to some of our wider policy objectives on remote rural communities, in particular. The research suggests that 18 per cent of Scotland's population live in those areas, but about 6 per cent of the affordable housing programme output goes there. There is some evidence that remote rural communities are losing.

**Kenneth Gibson:** May I follow that up? Incidentally, Ulva means "wolf island"—but I do not know when the last wolf lived there.

When I was first elected to Cunninghame North in 2007, Arran, in my constituency, had the highest per capita homelessness problem in the whole of Scotland. Ninety-six houses have been built since then. Is the cost of building houses in remote areas a real disincentive for local authorities? Building on an island can cost 50 per cent more than—or perhaps even double—what it costs on the mainland, because you have to import not just materials, but workers, who have to be housed and fed. Is there any way to rebalance that, to ensure that there is no disincentive for local authorities that are split between islands and the mainland—such as Argyll and Bute, Highland and North Ayrshire—to build houses on the islands?

**Tony Cain:** The delivery of housing investment programmes is the art of the practical; it is not a science. You deliver where you can as much as where you want to. That is the reality of it. You deliver where the land is, where communities are supportive and where you can secure the opportunities. That means that more difficult locations tend to get put to the back of the queue. It would be unrealistic to think otherwise. However, that does not mean that significant efforts are not being made to invest in remote rural communities where a need is demonstrated; it means that where some other objective is being served, you are less likely to spend time looking at that.

My understanding is that some conversations have been had about the fact that community ownership groups that have taken control of the land around them find it more difficult to engage with the affordable housing programme. There is a conversation to be had about how those two objectives can be matched.

**Kenneth Gibson:** Are there greater difficulties with acquiring land in rural and island areas? Local authorities tend to view island communities differently from mainland communities, given things like village envelopes, which you cannot build outside, unless it is specifically for agricultural use. That can really inhibit growth in rural and island communities.

**Tony Cain:** The challenges are likely to be different but not substantially greater. There are issues around settlement patterns, which are very different in more remote rural areas, where there are more dispersed patterns as opposed to more compact villages.

It is also about the planning process and people's expectations. I repeat one of the comments that I made at the round-table event. In 1692, the population of Glencoe was more than 500—that was the number counted at the point when the Glencoe massacre took place. It is now about 350. How do you imagine that the landowner in Glencoe and the planning authority would react if we said that we would like to build another 50 or 100 houses to bring the population back up to where it was 300 years ago? That would not be a positive conversation. We have to think about what we mean when we talk about repopulating our rural and island communities and what that means for how we direct housing investment.

**Kenneth Gibson:** Yes. Islay's population peaked at 15,000 two centuries ago; it is now at 3,500, so I understand your point.

**The Convener:** I want to mop up a question before I let Andy Wightman in. I apologise to Mr Cain for asking him another question, but it is relevant to him. As a general rule, there is a lower subsidy benchmark for councils than for registered social landlords in respect of subsidy grants to build new-build properties, although as we know there is no hard-and-fast specific grant and there are flexibilities and local discretion. Why do you think that there is a lower subsidy benchmark?

**Tony Cain:** It is historical. I was involved in the first subsidy review group that agreed subsidy levels including differentials. If you look back at the papers you can see that there was no clear rationale for it at that time from a local authority point of view. Bear in mind, however, that until then we had not been eligible for subsidy at all. We were just very happy to be getting back into

the process of building houses and that we were going to get some money.

I said last year that ALACHO is not making a big issue of this in this round of investment. I am aware that a number of local authorities have their own concerns and have expressed them. Last year, we asked why it is fair that council tenants pay a higher proportion of the cost of each new affordable house than housing association tenants pay. We think that that is a matter for conversation when the general issue of grant rates is reopened, as it will need to be in the run-up to the next programme.

**The Convener:** It is often said—that does not make it true, and it might not explain the full differential between local authorities and the housing association movement—that the housing association movement quite often has to purchase land, whereas local authorities might already have the land or have back-room staff to deal with a lot of the technical aspects of house building. Housing associations have to contract and purchase in a lot of that expertise. I am not saying that that explains the differential. Mr Stewart might want to comment.

**David Stewart:** It is certainly the case that housing associations generally have to buy land, and access to land and the cost of land is probably one of the bigger challenges around their delivering the 50,000 homes programme. It is certainly arguable that that is a reason for the benchmarks, but I cannot really comment on the costs.

**The Convener:** I just wanted to give you both the opportunity to put something on the record on that, if you wished to.

**Tony Cain:** That is the case, so far as we know.

Another point about the benchmarks is that the biggest differential in the grants is between councils developing in remote rural areas and housing associations developing in such areas. That is probably the one area in which we would say that the approach is quite harsh.

We have concerns about grant levels in relation to particular needs housing, but we have not included that in our written submission. We think that the situation with that is okay for now, but we will want to have another conversation about it when the issue of grant levels more generally is reopened.

**The Convener:** That is helpful.

**Andy Wightman (Lothian) (Green):** I want to talk about the 50,000 affordable homes target. Incidentally, the SFHA written submission talks about a

“Government commitment to build 50,000 affordable homes”,

but we have it on the record that the target is about delivering, and that the homes will not all be built.

The Minister for Local Government and Housing gave evidence to us in which he made it clear that, if councils are unable to spend the resource that they are given, he

“will have no qualms about moving it”.—[*Official Report, Local Government and Communities Committee, 10 May 2017; c 13.*]

The First Minister said at her party conference:

“If you don’t use all of your allocation to deliver new housing, we will take back the balance and give it to one that can”.

She went on:

“if you don’t use it, you will lose it.”

What lies behind that approach? Is it appropriate and what kind of timescales might it operate on? I assume that some councils and housing associations will find it easier to get up to speed and get building early, because they have plans in place and land available, but others will not. Do you see that threat—or intention, if you like—being implemented over the whole programme or very early on in it?

**David Stewart:** I am aware of those comments. It has always been the case that, where a programme might be slightly underspent in one area and there is capacity to spend more in another area, say in Edinburgh and the Lothians or the Highlands, some of that money will be shifted to ensure that it is spent and that the overall target for building affordable homes might be met.

That is maybe reasonable if we are not talking about huge sums of money or numbers. However, although the target of 50,000 homes is a great opportunity, it is obviously important that homes are then built in areas where there is identified need rather than simply where it is easiest to build them. That goes back to the comments that I made about ensuring that there are enough homes for older people or people with particular needs and maybe looking to see whether enough homes are being built in rural and remote areas.

**Tony Cain:** I confess that I was slightly baffled when I heard those comments from the First Minister, if only because it has always been the case that, if one local authority underspends on its affordable housing programme, at some point during the year, there will be a conversation about whether the funding needs to be shifted to another authority that is capable of spending it. That is not a change in position and it is not new. To the extent that the statement focuses the minds of

everybody in housing delivery in councils on the need to get on and deliver, perhaps it is helpful, but it is not new. It has not changed the rules within which we work.

**Andy Wightman:** So you see it as a political statement—that people should get moving—rather than any substantial change.

**Tony Cain:** I am not about to try to understand the First Minister's motivation in making that statement; all I am saying is that it did not tell us anything that we did not know. If we were going to take anything from it, it would probably be that we need to get on and deliver. It perhaps reflects the annual nature of the budget, which is perhaps unhelpful. It might help us to be clearer about some of the longer-term issues. Nobody who I have spoken to in the local authority sector reacted to that statement in any other way than by saying, "Yeah—that's how it works and how it always has worked."

**The Convener:** Nice sidestep, Mr Cain.

**Andy Wightman:** That is very helpful.

What are the key problems or difficulties that councils and housing associations are finding in delivering new affordable homes? I note from the figures on completions under the affordable homes programme in the year 1 April 2016 to June 2017 that just two thirds were new builds and that more than a third were existing homes being acquired or refurbished. What problems or issues are being faced that we need to be aware of?

10:30

**David Stewart:** When we speak to members about delivering new homes, the main issues are probably the availability and cost of land. Then there is the issue of whether infrastructure is in place to allow them to build on the land.

There is also a bit of an issue with human resources. Do housing associations have the development staff to build new homes? Going back to one of Tony Cain's earlier comments, I also wonder whether local authorities have the management staff in place to support programmes. There are also issues with planning departments, building control officers, and having skilled workers who are able to build homes.

The target of 50,000 affordable homes in the programme is a big increase, but it comes on the back of a period of cuts and a substantial slowdown in building. It is a challenge to then increase delivery, as it takes time for people to get back up to speed.

**Tony Cain:** ALACHO has always taken the view that the acquisition of houses on the second-hand market or unsold completed units by developers is

appropriate and should form a significant part of the programme. That is a sensible way of going about our business—apart from anything else, it allows for a great deal of flexibility.

The challenges in delivering are no different from those of five years ago. The scale is an issue and there has been some loss of resources during the period when the programme was wound down. There can be challenges with land, the planning environment, community relations and consultation.

We may face the issue in the local authority sector more so than our housing association colleagues do, but it is not unusual for communities to be concerned about council housing being built in areas where there has not previously been any. I have had those conversations with any number of communities in rural and urban areas. That takes time and adds to the length of the process, but those are not new challenges. The land issue is not new, but building up the skill set has been an issue.

**Graham Simpson:** I have a specific line of questioning, but I will follow up on the land issue. SFHA's written submission says that city deals should give

"greater priority to unlocking land"

and be

"more transparent."

The committee has been looking at that. Could you expand on that? All of you could probably chip in if you want.

**David Stewart:** We see city deals as a great opportunity. They provide funding that can be used to provide infrastructure to unlock land. Having written the submission, I noticed that the committee has received evidence from the City of Edinburgh Council. It is prioritising social housing and focusing a lot of its city deal on providing new social housing, which is good. Given that city deals provide an opportunity to invest in infrastructure and boost local economies, we felt that in some city deals there could be more emphasis, generally, on housing and unlocking sites.

**Graham Simpson:** I believe that you are based in North Lanarkshire, Mr Cain. Is that correct?

**Tony Cain:** No, I am based in Stirling.

One of our objectives is to better understand and engage with the Scottish cities alliance and the city deal. We have had a very positive conversation. It is for the cities alliance to work through the extent to which it thinks that housing is a priority.

The Westminster version of city deals does not have a housing element, because housing is a devolved issue, so there will always be a bit of shoehorning within city deals. Edinburgh is a good example of how that is managed. The strong commitment that the City of Edinburgh Council has made to affordable housing in its city growth plan is very positive.

**The Convener:** I promise that I have not forgotten about you, Mr Ferguson. If you catch my eye, you can come in at any point. You have to take my word that there is a whole host of questions for you.

**Mark Ferguson (Unison):** I want to refer to the Glasgow city region deal. The political priorities for that deal have been infrastructure and transport. Although we welcome the new investment that is coming into local government—after all, that is a new thing in itself—I would have welcomed the incorporation of more community-based projects such as social housing, as it would have helped mitigate some of the issues that we are facing in local government. I do not know whether that kind of flexibility exists within the deal, but if it does, I would prefer to see more community-based projects being put in place instead of big infrastructure ones. I accept that infrastructure projects boost the local economy—I am not going to counter that argument—but I think that if the money could have been invested in our communities, those communities would have been better off overall.

**Graham Simpson:** Those were useful comments about an area that we have been looking at, but it is not really the issue that we are questioning you about today.

I want to move on to the adaptations budget—again, this question is for anyone to answer. In your written submission, Mr Cain, you are critical of the lack of leadership with regard to that budget, which you say has not been increased by the Scottish Government for five years. As a result, demand now outstrips supply. Can you give any examples of problems that have occurred in that respect?

Moreover—and David Stewart might want to comment on this, too—you say that

“RSL tenants are”

getting

“a less effective service”,

with some waiting months for adaptations. Can you provide any evidence for that, Mr Cain?

**Tony Cain:** I think that I referred to some housing association tenants, and I stand by that comment. The situation is patchy in a way that it should not be.

There are three principal funding streams across housing, two of which—money from the housing revenue account and general fund money to support adaptations in the private sector—rest with local government. The third stream of money is held by the Scottish Government; it decided that the pots held by local authorities should be transferred to integration joint boards, but it still holds its own money.

The 2012 “Adapting for Change” report, which I quote in my submission, states very clearly that leadership on adaptations should rest with the strategic housing authority, but the minister decided to transfer local authority funding, and therefore an element of leadership, to IJBs. That leaves us with an inconsistent approach to directing and managing funds and a lack of clarity in terms of not only leadership but the Scottish Government’s purpose. The Scottish Government has committed to fully implementing the recommendations of the 2012 report, but it has already undermined the leading recommendation on leadership by transferring responsibility to IJBs.

I should point out that I am not objecting to that transfer; all I am saying is that, in five years, we have not moved on with improving the way in which we deliver adaptations, and it is now pretty much the only area of housing association performance where local authorities are consistently performing better. I am not saying that local authorities are as good as they should be, either. As far as evidence is concerned, I have to say that I have not mined annual return on the charter reports to come up with any horror stories. However, I know of one association that recently changed management, and when the new management came in, it identified a 500-day-plus average wait for an adaptation—in other words, a year and a half. That situation has been fixed, but it was not unusual, and you will not find it in the local authority setting.

We have had a long conversation about adaptations, but the issue has not moved substantially in the past three or four years. The Scottish Government has made commitments on it, but we have struggled to move things along. I am aware that some of those conversations are now opening up and that officials are now talking to others, particularly the Improvement Service, about adaptations and the i-hub—the improvement hub. However, we have not made any progress in that respect.

Indeed, I think that it might even be eight years since the Scottish Government increased the budget—it is certainly five. We are talking about an ageing population here. Forgive me, but can you think of any other area of activity in which there is such constant demand and in which leaving the budget stable for five years would not

have had an impact on outcomes? It must have had an impact.

**David Stewart:** The issue of adaptations has been raised as a concern by some of our members. Associations fund the more expensive adaptations through an annual grant, but that sometimes means that there is not enough funding to do all the adaptations that might be required. We are aware of the challenge.

One of my colleagues has had a discussion with the Scottish Government about the funding of adaptations and the possibility of moving to a more tenure-neutral approach, so the issue is being looked at. As Tony Cain said, the global funding has not gone up over the past four years, but given that it is good for people to remain in their own home and that we have an ageing population, that needs to be looked at.

**Graham Simpson:** Mr Cain said in his written submission that there is some evidence of

“tenants waiting months, rather than weeks”,

for some adaptations. Is that purely down to funding?

**David Stewart:** I believe that it is—at least, that is my understanding from the people who have spoken to me. Earlier this year, we had a workshop at a conference at which we looked at adaptations. Some associations said that they had spent their grant in the first few months of the year, after which there would be a wait before they could get grants to fund further adaptations. The level of priority seems to vary in different areas.

**Elaine Smith:** My question is more about new-build housing that would better suit certain groups, rather than about adaptations. In the equality statement that accompanied last year’s budget, the Scottish Government indicated that it expected the housing investment

“to benefit a range of key groups—including disabled people and lone parents”.

On that issue, I note that, in paragraph 3.10 of its submission, the SFHA says:

“The Housing Subsidy Review Group ... made a number of significant recommendations accepted by Scottish Ministers ... One ... that was not accepted ... was for a ring fenced fund to support the supply of new build housing for older people and people with particular needs.”

I presume that “people with particular needs” includes lone parents. Will you expand on that? Why was that recommendation not accepted?

**David Stewart:** At the time, the minister took the decision that, rather than have a ring-fenced fund, which would recognise that building such housing was more expensive, flexibility would be given when associations or local authorities applied for funding. The situation perhaps needs

to be constantly reviewed and monitored, to see whether enough homes are coming through the SHIPs and being delivered.

The SFHA and Shelter have funded research that looks at what is proposed in the SHIPs that are being delivered across Scotland. The idea behind that was partly to look at progress towards meeting the 50,000 homes target, but also to explore specific provision, whether in rural areas or for particular needs. We perhaps need to monitor the programme to see whether enough homes are being built.

**Elaine Smith:** The housing subsidy review group, which was convened by the Scottish Government, made that recommendation. Should it have been taken on board?

**David Stewart:** Yes, we felt at the time that it should have been taken on board.

**Elaine Smith:** I put the same question to Mr Cain. What is your view?

**Tony Cain:** I was not involved at that time, but the group clearly considered it to be important and the recommendation was a way to protect new-build housing investment. It would have helped to focus minds, but whether it would have been the entire solution is another matter.

Highly adapted housing for people with significant needs is usually built on a bespoke basis. Such housing is included in a development where you know that there is someone who will need it, because building it on a speculative basis would be a bit of a risk. We are talking about quite substantial additional amounts of cash being needed for that housing, and it would be difficult if it was left empty because there was no client with the relevant level of needs to occupy it.

In general, the evidence is that the supply of housing that is adapted for people with disabilities is not sufficient and that many people with disabilities are living in houses that do not meet their needs. There is plenty of evidence to support that statement, so if that recommendation had been accepted, it probably would have helped to focus the programme.

**Elaine Smith:** Given the reference to lone parents in the equality statement that accompanied last year’s budget, has there been any progress in increasing rented social housing provision for that group? Do you know what the position is on that, or is that something that you cannot comment on?

**Tony Cain:** I am not aware of any specific change in the way in which allocations policies generally work in relation to lone parents. Councils and housing associations allocate on a needs basis, so a lone parent with a housing need will be a priority. Very often—or as often as happens in

other ways—that group is housed through the homelessness route. You would struggle to find evidence of a change in practice in allocations to target accommodation at lone parents.

10:45

**Elaine Smith:** The committee might want to look into that further with the minister, in terms of last year's equality statement and the housing subsidy review.

**The Convener:** Absolutely. However, if we go down the road of allocations policies, we will be here for the rest of the week.

I have a small supplementary on adaptations, and then Alexander Stewart has a final set of questions on housing. We will then move on to a suite of questions relating to the Unison written evidence.

Mr Cain said that he hoped that integration joint boards will drive change in relation to how adaptations are managed in the housing sector. Is there any evidence of that happening? There is a lot of meaty money in the system, which is being transferred from healthcare to social care through the integration funds. I know that half of that is to meet social care pay commitments, but is some of it being used as a result of registered social landlords or local authorities identifying that making adaptations speedily could get someone out of hospital two, three or four weeks earlier than would otherwise be the case? Are those IJB funds being accessed, over and above the £10 million adaptations budget for RSLs? That is kind of the point of integration, and would be a more clever and cuter use of moneys to better meet the needs of those who require adaptations and would thereby save money in the long term. Is there any evidence that that is starting to happen?

**Tony Cain:** The pilot projects that were run through the adapting for change initiative have produced strong evidence about the way in which the adaptations process needs to change and what better looks like. We have some tests of change through those that will be useful in driving improvement. However, when we did a survey of our members last year, nobody said that the IJB in their area was committing its resources to support the adaptations process. I am not aware of IJBs putting money into adapted kitchens and bathrooms in the housing sector. Equipment is funded differently, so I cannot talk about that, but I am not aware of IJBs directing their resources to physical adaptations to houses.

**The Convener:** We can raise that with the minister. Do you want to add anything, Mr Stewart?

**David Stewart:** I am not aware of funding going in in that way, but I agree that it would make a lot of sense for money to be committed to save health boards money through reduced need for hospital beds and to have better outcomes for individuals.

**Tony Cain:** A conversation is probably required about adaptations in the private rented sector. We have not really touched on that, but there are practical problems with ensuring that private tenants who need an adaptation can get it, particularly in shared accommodation. Some work has been done on shared ownership situations, although we have not made the progress that is needed on that, either.

**The Convener:** I know from my constituency casework of owner-occupiers who need substantial investment in their properties to enable them to stay there but who cannot quite afford it. From my casework, it certainly seems that a more flexible approach to funding that would be beneficial. It is important to put that on the record.

**Tony Cain:** The issue of improvements to owners' homes always raises concerns about the use of public money.

**The Convener:** Yes, but I suppose that there are opportunities for equity stakes to be taken or whatever.

**Tony Cain:** Yes.

**The Convener:** That is helpful.

We will have the final set of questions on housing, and then move on.

**Alexander Stewart (Mid Scotland and Fife) (Con):** The ALACHO submission refers to the funding of other housing-related services. How can the 2018-19 budget address the pressures that local authorities face, for example on homelessness or private landlord registration?

**Tony Cain:** Where the Scottish Government has specific ambitions for more to be done or things to be done differently, that can be achieved by its properly costing that activity and providing the resources.

I make the point again in my submission that the landlord registration fee has not risen since the system was introduced in 2006, which is quite a long time ago, so there has to be a question about whether that fee remains appropriate.

There is an ambition for local authorities to be more effective in controlling the private rented sector, and we have new legislation in force in that regard. Lots of conversations about rent pressure zones are taking place, but the zones will not be straightforward to achieve and there will be a cost involved. If the Scottish Government wants things to be done differently, it is not unreasonable to say that it probably needs to think about what that will

cost and where the money will come from because, if the Government does not provide it, it has to come from somebody else or things will not get done.

**The Convener:** Does anyone have any additional comments to make? Do not feel obliged.

**Alexander Stewart:** What scope is there for improving the value for money that is obtained from the more homes funding, for example in commissioning and procurement? What improvements can local authorities and their partners achieve?

**Tony Cain:** Over the past 10 years and more, an enormous amount of work has been done in improving public sector procurement, and local authority procurement in particular. A number of framework contracts are now available. The landscape has changed quite dramatically as a result of the focus on efficiency, effectiveness and demonstrating value for money. We are getting better at procurement, although I suspect that people would not claim that we are as good as we can be. There is a strong focus on the issue, which is supported by the work that the Scottish Government has done.

**The Convener:** Do you have any more questions on that subject, Mr Stewart?

**Alexander Stewart:** No—that is fine.

**The Convener:** I am trawling the depths of my memory, and an issue that was raised in a housing paperback in 2007-08—I think that it was called “Firm Foundations”; I can see people nodding—relating to procurement by small registered social landlords. It was about the idea that, instead of a number of housing associations each procuring 20, 30 or 40-unit developments, they could use the same architect for all the developments, bundle together the contracts and drive efficiencies in the system. I know that “Firm Foundations” is a thing of the past and that things have moved on, but is that now standard practice in the housing association movement?

**David Stewart:** Quite a lot of work has been done on improving procurement. Scotland Excel has been funded by the Scottish Government to carry out procurement capability assessments to support associations and their practice. We have been able to employ a procurement adviser who gives advice and runs free training courses.

I have spoken to members about building the 50,000 homes. As I said earlier, there had been a drop in the number of homes that were being built because of previous cuts in funding. What often happens now is that an association that might have expertise in development will do new housing developments for other associations. For example, Kingdom Housing Association in Fife

does the development for the Fife housing association alliance, which is a group of four housing associations, and Link Housing Association does development for a number of partner organisations. Therefore, I would say that things have moved on and the practice that you described is becoming increasingly common.

**The Convener:** Before I hand over to the deputy convener to open up a new line of questioning, I point out that we are trying to explore two discrete themes with the panel. I thank Mr Black and Mr Ferguson for their patience—we could get you involved in the evidence-giving process only by including you on this panel.

**Elaine Smith:** I thank the Unison witnesses for coming along. Your evidence is important to us, because it is your members who deliver on the ground the services that are facing the cuts. I note that some of your written evidence was picked up in *The Herald* on Saturday.

In your submission, you say that

“budgets have been substantially cut and are far from adequate to meet demand from citizens.”

How do you feel about the inadequacy of the current settlement? You say:

“Last year’s budget announcement in particular lacked clarity, and it is hoped that this year there will be less spin.”

Could you talk to us about how you view the transparency of the way in which the funding settlement is approached?

**Mark Ferguson:** I will explain what we meant by what we said. In the previous budget round, the Government said that additional money was being put into local government, but it was talking about ring-fenced moneys. We did not feel that the announcements that were made and the funding that was made available met the demands in the way that was required. It was not new investment. It was new investment for new priorities. It was not investment coming out of local government to run the day-to-day services that we need; that comes from revenue. That is what we mean by spin. We would like the budget to be clearer that it is about the funding that is available for local government’s day-to-day services.

We are coming to the end of the salami slicing of the services and, in our view, local government is going to be providing statutory functions only. It will be a sorry day for Scotland and our communities if we end up at that stage.

To date, the salami slicing has amounted to 30,000 job losses in the public sector in the past 10 years; nine out of 10 of those jobs were in local government. Additional pockets of money have been announced but they have been ring fenced for specific purposes, so the money is not available to be used as general revenue. There is



no doubt that revenue has gone down quite substantially during the past decade.

Our members are struggling to cope. Services have been salami sliced, but we are still trying to provide a high level of service with a much-reduced workforce. That needs to be addressed and new revenue needs to come in.

I want to say something about priorities. Some areas of public services have been protected but local government is not one of them. We need to get back to people's basic needs in their communities—a decent home, good education, social care for our elderly and so on. Those are all the things that underpin our communities. Good youth services prevent the need or demand for the other services that are being provided. If we get it right for people at the start, they will not need as many of the higher-cost services later.

We are saying that we would like a bit of honesty about what is happening with the budget. We are happy to have a conversation with the Scottish Government on behalf of Unison members about how that can be achieved. We need to see increased investment.

**Elaine Smith:** In fairness, the committee asked last year for more clarity and transparency around the way in which the figures were produced and what they mean.

There was a breakfast briefing in the Parliament this morning on these issues at which some figures were produced. The revenue figure has been mentioned and, if I remember rightly, the Scottish Government has seen a cut of 1.5 per cent in revenue but the cut to local government revenue has been more than 4 per cent—I think that 4.5 per cent was mentioned. You are talking about looking at things in a different way—do you have your own figures?

**Douglas Black (Unison):** You are absolutely right. For quite a long time, we have used the argument that local government has suffered differentially more than other parts of the public sector. Because local government's budget is on a non-protected basis as far as the Government is concerned, we have seen cuts of between 9 and 14 per cent. That can only impact on the services that are provided in local authorities, and the day-to-day services and the jobs and pay of our members are funded out of that revenue budget.

In the past eight, nine or 10 years, there has been a huge decrease that has impacted on us quite severely and left us in the situation that we are in now.

**Elaine Smith:** Are the figures that you mentioned available?

**Douglas Black:** Yes. They came from the Fraser of Allander institute and they are contained in our written submission.

**Elaine Smith:** Part of the evidence that we heard from the academics at the breakfast briefing was that, in the end, we might be left with residual services of last resort, if you want to call it that. We know that services for the poor are often poor services. How could we stop that and reverse it? Some of the evidence that we looked at this morning showed that the pro-rich services provision, as it might be called, was cut less—there could be reasons for that—than the pro-poor services. What would your view be on stopping that?

11:00

**Mark Ferguson:** It is about investment. At the core of the issue is the money that is made available to provide services. I was not quite sure about the poor services element that you mentioned, but we need to look at what is happening in our communities. We have been taking information from our branches around the 32 local authorities, and every one of them has responded saying that the feeling in the community is different now because our open spaces cannot be maintained. People might not think that those are important services, but the attitude and the ability of a community to come together can often be affected by what the local authority is seen to be doing in that community. We have seen wee pockets of the public responding on a voluntary basis, but that is not a long-term solution or an answer.

From our point of view, if the key services that are provided by local government go there is an effect on other services. Youth services are almost decimated and we are seeing police reports that youth crime is up, that more people—particularly young people—are attending accident and emergency at the weekends, and that there is an increase in alcoholism. We believe that that is related to the foundation in the community. If we had more community services being provided, those other services would not be hit on. If we are going to build on community cohesion, we must ensure that locally provided services are well funded.

We are seeing changes to recycling collections, and that has had a huge impact, because full bins are lying outside people's houses for longer periods of time and that is attracting vermin. We are hearing that from the community. My background is in housing and I worked in Ferguslie Park, which is an area of high deprivation. Investment in Ferguslie Park helped community cohesion. It did not address all the issues, by a mile, and there are still many issues,

but from the community's point of view it brought people together. I think that something was missed in building on that but, if we keep cutting and cutting, our analysis is that there is nowhere else to go but the front line in local authorities. That is what we have tried to protect. We have seen some efforts on the part of local authorities to protect the front line, but that is the next place to go.

**Elaine Smith:** Are local authorities able to mitigate that with rises in council tax and increases in charges, or must the answer come from central Government?

**Mark Ferguson:** It would have to be from central Government. The council tax is one thing, and obviously it is right that councils should be able to look at their own areas. I do not believe that anybody really benefits from the council tax freeze, because services were cut. The option for councils to make decisions about the needs in their local areas is certainly welcome, and each authority will look at that on its own merits.

I think that the answer is central funding. When charges are increased, there is a decrease in demand, so I do not know that that balances out. I have not seen any evidence from local authority submissions that increasing charges has increased the revenue substantially to address the issues that we face.

**Douglas Black:** I return to the point about the percentage amount of council tax that comes into the local authority, which is only somewhere in the region of 14 or 15 per cent. There is now a 3 per cent cut, but even raising council tax by 3 per cent would not generate a hugely significant amount of money for the local coffers. That has to be taken into account. The headline may be about the removal of the council tax freeze, but the reality of how much money that generates is quite different. Over the past eight, nine or 10 years, local authorities have tried hard to mitigate the budget cuts that they have suffered. Our evidence suggests that charges for local authority services increased by in the region of 13 per cent over that period.

**The Convener:** You mentioned council tax. If every local authority had increased the tax by 3 per cent, that would have generated £70 million extra for local authorities, but eight local authorities did not, which means that there is £21 million less in the system than there could have been. When the council tax multiplier is applied, that would have given an additional £110 million, so potentially in the past financial year there could have been up to an additional £180 million in the system outwith the local authority revenue grant. Would that have helped mitigate some of the issues?

**Douglas Black:** Any money in the system always helps to mitigate but, from our perspective, the council tax rise and the ability to raise it by up to 3 per cent does not go far enough because we are talking about the holistic amount that the tax raises within the entire local government budget.

**The Convener:** But £180 million is not chicken feed.

**Douglas Black:** No, absolutely not.

**The Convener:** And £21 million to be spent on specific local projects can still make a real difference.

**Douglas Black:** Of course.

**The Convener:** Does Unison think that the eight local authorities that did not increase the council tax were wrong?

**Douglas Black:** I cannot speak for individual authorities. They have to base their budget decisions on what is best for their particular needs, but you will find that Unison has consistently argued against the council tax freeze for the length of time that it was in place.

**The Convener:** I find that confusing because this is all taxpayers' money. The Scottish Government gets a block grant and it can tax and spend. Part of that spending is the revenue support grant to local authorities. With the council tax freeze lifted, local authorities can do the same. If Unison's rationale is that the Government should have lifted the council tax freeze and should be giving more money to local authorities, how can you not take a view on the eight local authorities that have not increased the tax? Surely you cannot argue that the tax freeze was wrong and then come here and argue about the blight on financial support to local authorities while saying that you have no view on the eight local authorities that decided to continue the tax freeze. That just does not add up.

**Douglas Black:** No, I said that it was an individual view for those local authorities, in the same way that it was an individual view for each of the other local authorities in Scotland to raise the council tax by 1 per cent, 2 per cent or 3 per cent, according to their needs.

**The Convener:** Does Unison have a view?

**Douglas Black:** Unison's view is that we did not support the council tax freeze and, therefore, local authorities should have the opportunity to raise the council tax as they so wish.

**The Convener:** Does Unison have local branches in each local authority?

**Douglas Black:** Yes.

**The Convener:** Does Unison take a view in each local authority?

**Douglas Black:** I do not have that information to hand, so I could not sit here honestly and give you that view.

**The Convener:** Do you not think that that would be a pretty important bit of information to bring to the committee?

**Douglas Black:** That would be your view, convener.

**The Convener:** It certainly would be. Let us look at some other figures that you raise. Unison focuses on the revenue grant and it is right that that has been under a lot of pressure, but its numbers do not include an additional £750 million for the school attainment fund over this session of Parliament. In the last financial year, the pupil equity funding element of that was £120 million, which goes directly to school headteachers. Do you accept that that will mitigate pressures on the education budget? You rightly make a big deal of education.

**Mark Ferguson:** First, we focused on the revenue budget because that is what pays for the day-to-day services and that has been cut substantially. Even on the figures that we have just discussed—

**The Convener:** What are your views on the moneys that are going to education through the pupil equity fund? Is that a good thing or a bad thing? That will employ teaching assistants throughout the country for the next four or five years—those are low-paid workers, doing valuable jobs.

**Mark Ferguson:** Any money that goes in from the attainment fund is welcome and we hope that it will make a difference if the money is used properly and targeted towards teaching assistants. I am not sure that that is necessarily where it will all go. Any new money is obviously welcome, but if there is a suggestion that local government finances have not been cut, I am sorry but I do not agree with that.

**The Convener:** That is not what I am suggesting: it is important that you do not put words in my mouth. I will have exactly same conversation with Scottish Government officials when they appear at the committee. The point that I am making is that we look at one part of local authority funding as part of our budget scrutiny, but the committee is trying to get much more nuanced in its scrutiny.

We appreciate that targeting money at different parts of local authority services gives local authorities much more dynamic spending power than the revenue budget would suggest. I also accept that that means that there is less flexibility,

because that is a type of ring fencing. However, the committee has to get information on the record to show that the revenue budget is not the whole story.

Let us look at other moneys that Unison would not include—for example the £250 million that has been transferred from the health budget to integration joint boards, half of which will pay the living wage to social care workers. Is that additional mitigation of pressures on local authorities?

**Mark Ferguson:** Unison welcomes the money from the IJBs to pay the Scottish living wage for social care, for which we have been calling. Unfortunately, given the demands on social care, it is not enough. Our members and all the evidence tell us that there is a social care crisis. People are being released from hospital into the community and the social care element has to pick that up. Although additional funding has finally come through from the health budget for social care, it is not enough for the services that are required.

**The Convener:** I am not challenging that. What I am trying to get at is that if Unison is looking at the revenue budget but other moneys are in play, we have to scrutinise not only the revenue budget but the wider situation.

You mention the attainment fund and the health service budget in your evidence. You also mention the doubling of free childcare, which you say is a specific commitment outwith local authority revenue budget flexibilities. However, childcare is one of the huge delivery mechanisms in local authorities. There was something in the news the other month about local authorities and partnership nurses, and the business of employing an additional 11,000 childcare workers by 2021. Is there a good news story anywhere in local authority services? Is childcare one of the good things that is happening?

**Mark Ferguson:** We welcome the increase in hours of childcare to 1,140, and we welcome the new jobs—if they are real jobs that lead to high-quality provision. We do not want to see new tiers below the current qualifications when workers are brought in to provide childcare by local authorities. The Scottish Government's commitment is to introduce by 2020 provision of the living wage for the workers who will undertake those duties, but we would expect it to be paid from the commencement of their employment.

**The Convener:** That is really helpful, but the workers will be employed by local authorities—not by the Scottish Government. It is technically not in the Scottish Government's gift to deliver the living wage, although the Scottish Government has significant influence over local authorities in that

respect. Social care workers are an example. Do you accept that?

**Mark Ferguson:** Yes. This relates to the point that was made about housing need. When ring-fenced money comes in for a specific purpose, local authorities are not able to spend that money on anything other than the priority for which it has been set. The convener talked earlier about undertaking a needs analysis. We would like local authorities to be able to decide, under local democratic accountability, how the additional moneys that come to them should be spent.

There is nothing to protect local government—there are just Scottish Government priorities. I will go back to my earlier point: we need to be able to provide the basics for our communities in order to ease the pressure on other services further down the line, but we do not see that happening.

**The Convener:** I assure you that we will scrutinise the minister when he is here. I do not want to put words in your mouth, but would Unison prefer that the £750 million from the school attainment fund over the current parliamentary session, the £250 million baseline per year health and social care funds that are transferring from the national health service, and any moneys for childcare be pumped into the core revenue grant of local authorities so that they can do what they like with it?

11:15

**Mark Ferguson:** I do not like the expression, “do what they like with it”.

Local authorities have to do a needs analysis of the requirements for their communities. If they had more flexibility in some of those monies they could make a wider range of improvements for the community. I am not saying that the Scottish Government is going to set priorities, but when priorities are set and the money for them is ring-fenced, that is where the mismatch arises, because the need may be different across the piece.

**The Convener:** Let me rephrase that. I apologise for phrasing the question in a way that was not neutral. Would Unison’s preference be that, rather than being for national priorities, the monies for the attainment fund, the integration fund, and any new monies for childcare were put in the local authority revenue budgets and the authorities could then decide what their local priorities were?

**Mark Ferguson:** Unison does not have a policy position on that, but my view is that there should be more flexibility for local authorities to decide what to do with the money that comes in. There are priorities, but I do not think that they should be

set against an amount of money; I do not think that that is the best use of public money.

**The Convener:** Okay. Thanks.

**Kenneth Gibson:** I am not sure how, in those circumstances, a Government could deliver its manifesto.

I want to move on to the Unison submission, which is really excellent in respect of how it looked forensically at the issues that local government faces in resourcing. I was a bit puzzled, however, because after four pages of such information the conclusion is modest—to put it mildly. You said,

“No matter what the UK government decides in its budget,”

which is a big caveat,

“the Scottish government needs to use its full powers to ensure adequate funding to deliver these essential services and decent pay for the workers that the services rely on.”

However, there is nothing in the submission that says what you mean by “adequate”. We now know that the United Kingdom budget includes a £239 million real-terms resource reduction for the Scottish budget. How would the Scottish Government be able to deliver, regardless of what the UK budget said, and can you tell us what “adequate” means, because we are trying to find out from local government how much we need to fund it?

**Mark Ferguson:** The point that is being made is that we understand that the UK Government has made cuts that have Barnett consequential and that those cuts have come to Scotland. However, the way in which those cuts have been disseminated within the public services has been disproportionate; in each budget since the cuts started, we have seen local government funding cut disproportionately by more than the cut that has come from the UK Government. That is the point that we are making. We want to see adequate funding to provide the essential services that local government provides. That is what we mean by that.

**Kenneth Gibson:** In your submission, you say that the reduction in local government funding has been between 9 per cent and 14 per cent. The Scottish Government will say that its resource budget has been cut by 8.1 per cent over the same period, with £500 million having been cut before that by the outgoing Labour Government. Therefore, if we are going to fund local government adequately—although you do not specify how much that might be—does that mean that we should reduce the money that we give to the NHS? How would we use the “full powers”, as you suggest?

Unlike the Westminster Government, the Scottish Government must, by law, balance its budget every year. We do not have control over

VAT, excise duty, national insurance or dividends, all of which are reserved, which effectively means that we have to raise taxes or switch resources from other parts of the Scottish budget. How would Unison fund the “adequate” settlement that it calls for, and how much would we have to put up taxes or switch money from other areas of the Scottish budget?

**Douglas Black:** There is no doubt that the Government will argue that it has to set priorities in allocation of budgets to the various parts of the public sector. I am not going to sit here and tell you how to rob Peter to pay Paul. What we are saying is that there are ideas that the Government could look at. They might not be short-term ideas: they could be much longer-term proposals—reform of local taxation, for instance. We firmly believe that new local taxation that introduced a local property charge with proper re-evaluation of bandings and so on would place local authorities in a much more stable position.

The commitments that I expect the Government will give on low-paid workers elsewhere in the public sector must also be looked at. I take the point that was made previously about local government pay not being in the gift of the Scottish Government. I accept that that involves a separate negotiation with the Convention of Scottish Local Authorities but, in our view, part of the funding for local government should be about fair funding for local government workers. The pay that those workers receive has fallen by about 15 per cent below inflation over the past eight to 10 years.

As far as local government is concerned, we need to get back to full baseline funding and stop dropping that baseline to a level that, to be frank, is not sustainable. The salami slicing that Mark Ferguson talked about has been going on continuously. Our submission contains comments from people who work in the services that set out the quite dangerous implications of what is happening. However we do it, we have to get to a position where we avoid that danger.

**Kenneth Gibson:** I agree with a lot of that. My concern is that, although we might all support local government reform and the possibility of the new revenue that Mr Ferguson talked about, the budget is in eight days’ time and, although Unison’s submission contained a lot of detail about the reductions in funding and so on, Unison is not making any suggestions about what should happen next week. It is not saying how much tax should go up by, how much should be switched from other budgets or how much local government needs to fund inflationary pay rises, cope with new pressures and so on. I am concerned about the fact that you have come here and told us in great detail what the problem is, but have not given us a

solution, other than one sentence about needing to “use ... full powers” and deliver “adequate funding”. That does not really give us anything to work with, no matter how sympathetic we are. We really need to know how much extra money local government should get and where it should come from.

**Mark Ferguson:** I understand that COSLA has said that just more than £500 million is needed to maintain service provision at current levels. That is a starting figure for you.

What I will say is that it is about priorities. In no way would I suggest that we should cut the uniformed services, but there is a bigger issue. I want a budget that goes back to the basic core issues in our communities, and I want the workers to be adequately paid and resourced to provide those services. We have cut youth services substantially—they have been among the hardest hit. It is therefore no wonder that we are seeing children hanging about in play areas and other places, and that reports of crime are up. We have heard from our colleagues in health that accident and emergency services are under extreme pressure. The aspirations of children in our communities have been taken away from them because we do not have services at the level that we had before.

**The Convener:** You make a passionate case very well. The frustration of the committee—which we feel in relation to everyone who gives evidence as part of the budget process—is that we have to look at the numbers that will be before us next week and think about how those numbers might change. That is why we pick away at the numbers. When we picked away at the COSLA position on the funding gap, we saw that the stand-still position included a 2.8 per cent revenue increase for services and a 3 per cent pay increase for staff, but we were not sure whether COSLA had included the £250 million of integration money. We have to scrutinise COSLA’s figures as well as the figures that you are talking about, and we have a bit more work to do in that regard before we can take a view on them.

We have time for a final question.

**Graham Simpson:** Gentlemen, you may feel that you have been given a bit of a hard time today. However, the message that I am hearing is that, year-on-year, council budgets have gone down and councils are now pared to the bone. I will attempt to assist you with regard to the council tax issue. Do you agree that giving you the power to increase council tax does not mean the same as saying, “You must increase council tax”? The decision about whether to increase council tax is up to each council and, if the council decides not to increase council tax, that does not mean that it

is not getting less money from central Government. Do you agree with that?

**Douglas Black:** Yes, I think that that is fair.

**Graham Simpson:** That is all I have to say.

**The Convener:** I thank everyone for their patience as members have asked questions—I indulged myself with regard to my line of questioning, too. Please continue to follow our evidence-taking sessions. You will see that the Government is asked similar questions about how it presents its numbers and how robust the numbers are, and you will see that we say what we think it should and should not do. There is consistency in our questioning. It was quite difficult putting the panel together, but we wanted to give both sets of stakeholders the opportunity to put their views on the record.

11:26

*Meeting suspended.*

11:28

*On resuming—*

**The Convener:** We move to our second panel of witnesses as we continue to take evidence on the Scottish Government's draft budget. I welcome Robert Emmott, the director of finance and corporate resources at the Eilean Siar council—I apologise for bottling out of pronouncing the full name—and Alastair MacArthur, the head of finance at Renfrewshire Council.

Gentlemen, I apologise for the length of time that you have had to wait. These evidence sessions have their own dynamic, and it would have been discourteous not to allow the previous evidence session to run its course. However, that means that we are starting your part of the meeting significantly later than planned. We will move straight to questions.

**Graham Simpson:** You will have heard the previous evidence session, so I will start with a straightforward question. Do you think that the amount of money that is coming to councils is enough?

**Robert Emmott (Comhairle nan Eilean Siar):** The funding that the comhairle expects to receive next year is not sufficient to allow us to continue to provide the same level of service that we are providing at the moment. We are within what we are expecting and what we are expecting to achieve with efficiencies for the next year. If we have a 3 per cent reduction in local government funding next year, for example, that leaves us as a council with 3 per cent savings to find through service reduction. That is after finding a similar sum through efficiencies and things that we have

already put in place. It is not enough to continue to provide the same services if things continue like that.

11:30

One of the difficulties is that we will not know until next week what the settlement will be for next year. Although we have some information, we are working in the absence of any figures either for next year or for subsequent years.

**Alastair MacArthur (Renfrewshire Council):** I echo what Robert Emmott said in terms of having visibility over the medium term. I think that Audit Scotland has commented in every audit report over recent years that councils must endeavour to provide medium-term financial planning figures. That is not impossible to do, but it is more difficult to do in an environment where our settlement—our main source of funding—is allocated on a single year basis.

To answer the question, there will undoubtedly be an impact on the totality and the quality of service delivery that councils are able to achieve given future pay settlements and the level of income that councils can expect to receive over the medium term. Every council will be planning to manage that, either through efficiencies or through other measures, to try to achieve a balanced budget position.

**Graham Simpson:** I appreciate that you are working blind, as you are every year, because you have not seen the draft Scottish budget yet, but all councils will make guesses about what is coming and provide councillors with a range of options ahead of the budget. You have probably done that already. Can you each give us an idea of the forecast range of cuts that you have been working with and the kind of services that may have to go?

**Robert Emmott:** We produce a projection and we have a fan chart that sets out the range of probabilities that we are working to. Our central case is that we will have a shortfall of about £6.7 million next year if we take into account all the things that we know. We are assuming that pay will rise at 2 per cent, that there will be a 4 per cent reduction in grant funding and that inflation will continue to run at 2 per cent. We are also taking into account new pressures from changes such as universal credit and how they might affect us.

That is our base case. Obviously, that figure could go up. If you put another percentage point on pay, that will push the shortfall upwards; if the grant settlement is more favourable, that will bring the shortfall down. We have a range of possibilities—if we continue on the same trajectory as we have for the past couple of years, we are

looking at saving around £12 million. That is about 12 per cent of our budget over the next two years.

That is the planning horizon that we are looking at. What have we done? We have looked at doing everything that we can to reduce loan charges and to continue to seek efficiency. Of the £35 million that we have had to save over the last period to balance the budget, about £19 million has been saved through doing things more efficiently. Sometimes, there can be a question as to whether rationalising two schools into one is an efficiency or a reduction in service, and that is a point that you could debate. We have made savings through doing things that have not diminished the outcomes that we are trying to achieve; historically, a relatively smaller sum has been saved through service reductions. However, those have been quite high profile in some cases. The removal of the Barra to Benbecula air service is the one that has perhaps attracted most attention, but we are spending less on roads maintenance and we have removed itinerant teachers, so discrete things have gone.

Because there is so much uncertainty about the figures, we have not started a public consultation exercise. It is very difficult to have a public consultation exercise when you do not know whether you are talking about a 5 per cent saving or a 10 per cent saving. However, the reality is that with a working assumption that teachers will continue to be protected, as will the IJB, and that funding for new initiatives and the loans fund will be fixed, we are looking at making savings of about 8 per cent out of about 40 per cent of the budget.

The bits of the budget that will suffer will be in leisure services, roads, non-teaching aspects of education and public transport. Those are probably the services that people will feel most strongly about, and there will be difficult decisions. I managed to look at the Scottish Parliament information centre briefing on who would be affected by the balance of services. Because most of our services are pro-poor—I think that that is the term that is used—there will increasingly be an impact on them.

The committee discussed housing in the earlier evidence session. Increasingly, and particularly where we are, there is a risk to support for rural communities. For example, transport, which is one of the discretionary services, is vital to keeping people living in rural and remote communities, but it is also one of the services that we will have to look at. We have done some good work. For example, the year before last, we did a very successful piece of work on participatory budgeting, in which we reduced the budget and got people involved in redesigning the service. However, in the very remote areas and islands,

which some committee members might be familiar with, reducing services becomes more and more difficult. When we provide a minimum service at an optimum level, the only changes that we can make are to withdraw it or to shrink it. For example, we provide a leisure facility on Barra, where there is a swimming pool, and there is a fixed cost for doing so. If we have to make a saving out of it, either the facility will have to be open less or it will not continue. Those are some aspects of the challenge that we will come up against in the next period. However, we cannot get into that level of discussion on such options until we know exactly what we are talking about, or we will have a very difficult community engagement process. I hope that that has answered your question.

**Graham Simpson:** That is very good. Perhaps Mr MacArthur would like to add to that.

**Alastair MacArthur:** I echo much of what Robert Emmott said about the information that we provide to elected members to give them visibility of the council's financial position. That is framed on a range of assumptions that are, broadly, around the key elements of the budget, such as pay awards. For example, we will be framing on a central assumption of a 2 per cent pay award for next year. Other central assumptions for the coming year are a 4 per cent cut in revenue grant and inflation continuing at its current rate. Consumer price inflation is running at 3 per cent, which we hope might reduce slightly over coming years, in line with Bank of England forecasts.

On the areas of efficiency that have been targeted—that is to say, those that we can look to deliver efficiencies from—I have quickly read the key messages from the SPICe briefing that was issued this morning. A large element of such efficiencies has come from the back office. That has been a key strand of what Renfrewshire has done for the past number of years. In the vast majority of savings that have come out, we have tried to avoid having any impact on the front line. However, we are reaching a stage where, inevitably, there will be some impact on services there. Whether that will be on the quality or the quantity of services has yet to be determined. The coming year's financial outlook, which will be presented to members at next week's leadership board, will outline a forecast gap that has remained broadly similar over the past year or two and which shows a savings requirement of the order of £20 million per annum over the medium term.

**Graham Simpson:** Are you getting to the point where you are thinking of cutting statutory services, or is it still non-statutory ones that you are considering cutting?

**Alastair MacArthur:** We would always focus on non-statutory services. The council has an obligation, through statute, to deliver a whole range of services that we would not look to cut. As has been alluded to in previous evidence sessions, that leaves a small number of council services that are in either non-protected or non-statutory areas. Such areas are increasingly being targeted but, as I mentioned earlier, our ability to drive efficiencies out of them without having an impact on their quantity or quality is starting to be impacted.

**Graham Simpson:** I have one final question. You took different decisions last year on whether to raise council tax. Renfrewshire Council did not change the rate in band D, but the Western Isles Council—I cannot pronounce it in Gaelic, unfortunately—decided to levy the full 3 per cent. Why did you take those decisions?

**Alastair MacArthur:** The increase in council tax is largely a political decision to be taken by the administration at the time, and the administration made a commitment not to raise council tax. In its view, the tax was impacting on the residents of Renfrewshire who were already hard pressed due to other financial demands, so that was the rationale for its decision at that point.

**Robert Emmott:** I suppose that it was a political decision for us, too. In the previous years, when the leader and I went around communities consulting on what they thought we should be doing with the budget, there was a regular question about why we were not raising council tax. Having had a period with a council tax freeze, the view of the council was that there was an opportunity to raise it.

If we look at it in context, council tax is less than 10 per cent of our income, so a 3 per cent rise is £300,000, which is not a huge sum of money. In our case, because our properties, by and large, are in the lower bands, the amount of money that was raised by the statutory change was about half of what was raised through the decision to raise an additional 3 per cent on council tax. Together, that was an additional half a million pounds or so towards a challenging budget for the council, and the council was in the position to take that decision.

**Graham Simpson:** Has there been any kickback from the public?

**Robert Emmott:** No, we have not had any negative feedback. I am not aware of any such responses to the council tax rise in the past year.

**Kenneth Gibson:** How much did Renfrewshire forgo by not raising council tax in the election year?

**Alastair MacArthur:** Each 1 per cent rise in council tax generates about £700,000 so, if we had taken the full 3 per cent, that would have been just over £2 million.

**Elaine Smith:** Thanks for joining us and for waiting to do so. How well are councils evaluating the impact that budget reductions have on specific communities such as, for example, vulnerable groups?

**Robert Emmott:** All our budget choices or decisions, as we call them, are subject to equality impact assessments. We have a process—if you wanted to, you could go online and see them all—in which we try to identify the impact of what we are doing and, if necessary, revisit it. It is fair to say that, because our officers are mindful of their equalities duties, proposals come forward with those in mind so, when we do the work, it does not usually highlight anything. There is a robust process that makes sure that any change that we make is properly assessed, and it is documented for members for when they make their decisions.

**Elaine Smith:** What issues have been identified with the equality impact approach, and how have they been addressed? Can you give us examples?

**Robert Emmott:** We have never had to make an adjustment to a proposal on account of something that has come up in an assessment. As I said, that is because officers are mindful to seek to protect the most vulnerable when they develop proposals.

**Elaine Smith:** So your equality impact assessments have not thrown up any issues.

**Robert Emmott:** No, nothing.

**Elaine Smith:** That is interesting. Mr MacArthur, do you have a similar position?

**Alastair MacArthur:** Yes, I think that the approach in Renfrewshire is similar. We undertake equality impact assessments on all the budget decisions that we make. As I mentioned, the efficiencies and savings that have been made to date have largely been targeted at services that are not front-line delivery services. Therefore, similar to the Comhairle nan Eilean Siar, we have not experienced any significant impact on one particular constituency, area or vulnerable group that would demand that we adjust the efficiency decisions that have been taken to date.

**Elaine Smith:** Equality impact assessments look at protected characteristics, and I think that Unison said in previous evidence that a lot of youth community services had been affected by cuts. Age, of course, is a protected characteristic. Have those been affected in your area?



11:45

**Alastair MacArthur:** That is not something that I have experienced or have knowledge of. The savings decisions that I have undertaken over the past years have not targeted that age group. If anything, our work has dedicated additional resource to younger people through the roll-out of the tackling poverty programme and by addressing, for example, costs of the school day and supporting a families first approach to avoiding and mitigating areas of demand that the council sees further down the line. As we have outlined in our written submission, the council has clearly focused on early intervention as a way to reduce demand and costs.

**Elaine Smith:** To be clear, are you saying the same as the Western Isles Council—that no particular issues with the equality impact assessments have been identified—or are you saying that they have been identified and addressed?

**Alastair MacArthur:** I am not aware of any significant issues having been raised around the savings proposals that have been generated.

**Elaine Smith:** Okay—that is interesting.

**Alexander Stewart:** I have a supplementary question. I presume that when your budget review group meets, it looks at the efficiency savings that you have made and their potential knock-on effects on the supply of and demand for your services, whatever they might be. You have indicated today that those savings have not had a massive impact on supply and demand and service quality. Is that the case across the board or just in specific areas?

**Alastair MacArthur:** To clarify, I would not suggest that the savings that have been agreed to date have not had any impact. There has obviously been an impact on the operation of the council. However, with the savings that have been generated to date, we have targeted as far as possible back-office and non-front-line services.

**Alexander Stewart:** Are you saying that there has been redeployment of staff and addressing of efficiency in management processes or technology or things of that nature, so that, in reality, the front-line service has not been dramatically affected?

**Alastair MacArthur:** I am suggesting—and I hope that the SPICe briefing that was issued this morning echoes this—that the areas of saving that we have been targeting have largely been back office. However, as I mentioned earlier, in the very near future we will come to a position where that will simply not be a sustainable approach, and we—or elected members—are going to have to make some very difficult decisions.

**Alexander Stewart:** In your financial planning you will have short-term, medium-term and long-term solutions for the situations that you are looking at. You will also be looking at forward planning, with potential budgets for the coming years, and you have identified now that the problem is going to arise even more than it does today.

**Alastair MacArthur:** I would not suggest that we have solutions, but we have forecasts of what the position could be, assuming that a range of assumptions holds true in key areas around pay award, the level of grant support that we receive from the Scottish Government, and council tax. Those are obviously our key levers for addressing the financial position over the medium term.

**Alexander Stewart:** As with all local government, is there a political decision at the end, after you have made a recommendation or a suggestion?

**Alastair MacArthur:** Yes. We can arrive at a range of options that elected members take a view on.

**Alexander Stewart:** You give them an option menu, and it is up to the political administration in your organisation to then make the decisions based on your assumptions.

**Alastair MacArthur:** Yes.

**Alexander Stewart:** Thank you.

**The Convener:** Mr Emmott, do you want add anything?

**Robert Emmott:** To be clear, during the period since the financial crisis, about 10 per cent of our savings have been made through service reductions. It would be wrong to say that there has not been any impact. There has not been any identified impact on particular groups as a consequence of those savings.

**Alexander Stewart:** But there has been an impact.

**Robert Emmott:** There will have been an impact. As a council, our aspiration is to minimise the impact and to do the best job that we can with the resources that are available, but there is no doubt that, for example, if we are spending £1 million a year less on maintaining the roads, the condition of the roads will deteriorate in the long term.

People are probably not feeling the impact of that just yet. There has been an awful lot of discussion about the removal of itinerant teachers and specialist music teachers, and although we are looking at different ways of delivering that service, there is still an impact on the people involved. We have done a lot more about efficiency in the period that is just behind us; as

we move forward, the challenge will be to address the shift in the balance from making efficiencies to dealing much more with the impact on services.

**Elaine Smith:** That leads us, again, to the issue of service redesign and the impact on staff and the quality of service that they are able to provide. I have a question specifically for Mr MacArthur, whose submission highlights the decision to shift to a digital-first model and approach to customer service. How will that impact on more vulnerable groups who find that kind of approach very difficult, if not impossible?

**Alastair MacArthur:** We absolutely recognise that a digital-first approach will not work for everyone; indeed, only last month, the council agreed a customer service strategy that recognised as much. That is why the council will always have options such as telephone support or front-office customer service centres available across the county to members of the public who do not find a digital-first approach to be the best for them.

**Elaine Smith:** Have you equality assessed that and put in additional moneys for vulnerable groups?

**Alastair MacArthur:** With the changes that we have made to date—for example, implementing a customer portal and encouraging people to use it to submit planning applications, changes of address, applications for council tax reduction and so on—we have absolutely recognised that a digital-first approach will not work for everyone, and we will always have other routes available to members of the public to contact us if they want to make such changes.

**Elaine Smith:** I presume, though, that a digital-first approach allows you to downsize staff. Is that where you will make your savings?

**Alastair MacArthur:** That is one area where savings have been generated in the past.

**Elaine Smith:** On the wider issue, do councils see increases in fees and charges as a means of offsetting budgetary pressures?

**Robert Emmott:** They do not see them as a means to do so significantly. I would echo the point that was made by Unison in the previous evidence session. Our area has a low-wage economy. Fees and charges principally come through services; if we were to put up the fee for, say, our leisure facility membership scheme, which is one of our biggest schemes, we would lose not only people from it but the wider health benefits that come out of it. Can we fix our budget gap by putting up fees and charges? No, that is not a solution; in fact, a bit of work that we did on car parking this year demonstrated a tipping point in that respect, with people avoiding car parking

charges by—if I can put it this way—changing their parking habits. That is a relatively small measure, but people are mindful of such things. With our low gross domestic product economy, we do not have the capacity to raise significant additional money from citizens.

**Elaine Smith:** You mentioned health. There are certainly cross-cutting issues to take into account, because if raising fees were to impact on people's health, there would be a corresponding impact on the health budget.

**Robert Emmott:** Our council is very mindful of that. Five years ago now—I think—we introduced our “Slàinte mhath!” scheme, in which we moved from a system in which everyone just paid for each visit to a standard membership scheme. At the time, we were not sure exactly how the move would work out, but it was highly successful with regard to take-up of and participation in sport, particularly among young people. Council members are very mindful of that in the wider strategy.

**Elaine Smith:** Thank you.

**The Convener:** Did you want to add anything, Mr MacArthur?

**Alastair MacArthur:** Like Robert Emmott, I do not think that increasing fees and charges will be a solution for us, given the size of the funding challenges that we face. Fees and charges for organisations and members of the public in Renfrewshire raise something like £10 million, so raising them by a couple of per cent will not address the size of the challenge that we are facing.

**Robert Emmott:** It occurs to me that fees and charges impact on the business sector, too. One area where we have been raising charges higher than inflation is pier and harbour dues, which of course puts pressure on the businesses that use piers and harbours. There is a balance. My point is that it is not just about individuals. We are trying to support the whole economy, and businesses have limited capacity to absorb increases.

**The Convener:** The observant among us will have noticed that Mr Wightman has left—he had to go to another committee to carry out duties that he has there. I know that Mr Wightman and Mr Gibson were keen to raise a number of issues. Mr Gibson, will you raise some of them?

**Kenneth Gibson:** Yes. I have a couple of questions that Mr Wightman asked me to ask on his behalf, but I will ask a couple of my own first, if that is okay.

Mr MacArthur talked about £10 million being raised in Renfrewshire through fees and charges. Forgoing a 3 per cent council tax increase is equivalent to about 20 per cent of that.

**Alastair MacArthur:** Yes, arithmetically.

**Kenneth Gibson:** In your written submission, in answer to question 8, you say:

“The subsidy councils receive per new build home is £57,000 ... however RSLs receive £70,000”.

You continue:

“An increase in subsidy to match that of RSLs could have a significant impact on the level of new build housing councils can deliver.”

What sort of impact would that have in Renfrewshire?

**Alastair MacArthur:** I do not have that figure to hand, so I would need to consult my colleagues in the housing department. However, my understanding is that, if the level of subsidy was increased, that would obviously reduce the demand for council resource to fund our strategic housing investment plan. Within the rules on housing revenue account investment being balanced in relation to rental incomes, that would increase the number of houses that Renfrewshire could build in the coming period. I can consult my housing colleagues on the exact numbers and provide that information to the committee.

**Kenneth Gibson:** It could mean the difference between projects going ahead or not.

**Alastair MacArthur:** I am not particularly close to that issue, but I can take that back and provide a response to the committee once I have consulted with my housing colleagues.

**Kenneth Gibson:** Mr Emmott, your written submission says that your council

“welcomes the allocation of resources for housing and believes this is an essential component, particularly in rural areas, for retaining population and jobs”,

and

“considers it essential that housing funding is permitted to be used flexibly to prevent the significantly higher cost of building houses in island locations acting as a barrier to development, and consequently population retention.”

One of our briefing papers says that the resource planning assumptions are that your funding will increase from £7.533 million in the next financial year—I do not have this year’s figure—to £9.092 million in 2020-21, which is a 20 per cent increase. What impact will that have? Will you also explain what you mean by flexibility in relation to housing spend, although I think that I know the answer, because I have a couple of islands in my constituency?

**Robert Emmott:** There are a few things in there. For us, the biggest challenge is developing in the rural areas. You talked earlier about the difficulties with having land available. Traditionally, it has been easier to get land and sites and to get development to happen in and around Stornoway

than to do so in the more remote places. Down in the southern isles, it costs about 50 per cent more to build a house than it costs anywhere else, and there is also the difficulty of getting people to come and build houses.

The SHIP involves a balance between being able to deliver the things that we know that we can deliver to get the houses, and trying to achieve the council’s objective, which we discussed yesterday, of getting houses into remote and rural island communities. There are benchmarks around the cost contribution, and the Government has been supportive and flexible in considering what contribution can be made to make the scheme work. However, there is still an opportunity to look at more inventive ways of supporting people who want to live in those communities.

There is a particular challenge where the cost of building a property will exceed the value of the property when it is built. If it costs £180,000 to build a house but you cannot sell it for that amount, there will be a difficulty when someone comes in to try to buy it. The council has been involved on a small scale, with small places. For example, a person in Harris is building a house that they will live in. That is what we want—not people who want to build houses that will be used as holiday cottages. It is about finding innovative solutions.

12:00

To be entirely fair to the Government, there is a lot of support for our work, which is important. However, our work does not get the numbers if a big number of houses has to be delivered in a short period. It takes longer and it is more expensive to deliver a smaller number of houses. That is the conundrum that we are up against. We are—as I hope the Government is—very much about trying to keep people in communities. The first step towards doing that is housing, and the second step is services. If there are no services—such as broadband—it will be a struggle to get a family to move in.

**Kenneth Gibson:** Can you use the money to refurbish, rather than rebuild? That would perhaps not only allow cost reductions, but maintain the traditional look of some of the houses and villages.

**Robert Emmott:** That is all in the mix in relation to the cost and the availability of the housing. We took the step of using the power to double the council tax on empty homes, particularly as a way of trying to bring more of them back into use. That approach has had some success, but for a number of properties—in cases where there are people in care, for example—it is a challenge to work out how to get them into use and not let them deteriorate in condition.

**Kenneth Gibson:** That was my last question, convener. However, before he left, Andy Wightman asked me to put a question to the panel in his absence about the short-term nature of funding.

In your submission, Mr Emmott, you say:

“the Budget Review Group medium and long term financial plans for all sectors would help councils in their strategic planning.”

It goes on to express concern that

“Notification of single year settlements in mid-December reduces the opportunity for meaningful engagement within communities.”

What impact does that have on your ability to plan ahead, Mr Emmott? Perhaps you could answer that question too, Mr MacArthur.

**Robert Emmott:** We have always tried to work within the funding that we have and to do our best. However, if we are uncertain about what is coming, we cannot plan for the best use of resources. We need to set our budget in February—although I know that, technically, we have a little longer than that—but if we learn only in the previous December what the settlement will be, and it is only for one year, we have to conduct a single-year exercise in a short time to try to agree what we are going to do. In a period of growth—you will need to cast your minds back to when we had the first three-year settlement and 5 per cent growth; it feels as though that was a considerable time ago—that is not such a challenge. However, when we are in a period of service reductions, we do not want to have a conversation with the community and say that the budget will reduce this year, then have to go back the next year to tell it that the budget will be reducing again. What we really want to do in those circumstances is redesign the service.

I have been working with our council to consider whether we can plan a budget that decides what we will do for the whole council term, so that we do not go back every year and talk about cuts. Instead of that approach, we would decide what we are going to do, then do it, then focus on the positive things.

We are doing positive things with, for example, e-Sgoil—the department of education. We are trying to say that there is a different and better way to deliver services.

The process would be better if we had indication that a settlement for the next period was there. There is the capacity to do that. The UK Government set out four-year plans when it came into office, but that did not translate into longer-term plans in Scotland. I accept that that could change, and the Government has made a series

of commitments through its manifesto that it is committed to delivering in that regard.

You have talked about transparency. Funding is coming in for expanding pre-school education. Where it is coming from? Is it coming from local government? Having clarity across the piece about what is expected and how it is being funded would help everyone buy into it. I accept that it is for the Government and the council to make their own choices about what those priorities are, but officers working in the scheme need to know what the framework is. We would make better decisions if we had clarity about what we were doing.

**Alastair MacArthur:** I do not have anything particular to add to what Robert Emmott has outlined. In an environment where overall resources are reducing, it would help councils enormously if we had better visibility of the extent to which they might be reducing. That way, councils could plan, in conjunction with their communities and their community planning partners, to try to address the challenges in a much more structured way than we are able to do at the moment. That would potentially not only allow us to invest in areas of transformation that might deliver over a much longer period, but give us visibility over how we would bridge the gap in the shorter term. It would be enormously helpful to have that visibility.

**Kenneth Gibson:** Although, of course, the Scottish Government does not always know its own budget until the Chancellor of the Exchequer stands up at the dispatch box, which makes it difficult from its perspective.

**The Convener:** We are about to close this evidence-taking session. Do either of the witnesses have any final comments to make?

**Robert Emmott:** The only thing that I would add is that with island communities there is an opportunity to look at the single island authority model. There is not an opportunity for shared collaboration across councils as there perhaps is in Ayrshire, for example, where a number of councils can collaborate. The way to have the best public sector economy is through an area or place-based collaboration around the islands. That is a potential opportunity not only to make efficiencies, but to ensure that the services are best designed for the citizens. It is worth bearing that opportunity in mind.

**The Convener:** I ask that Mr MacArthur holds on to his thoughts, because Mr Gibson has made a late bid to ask a sneaky wee question.

**Kenneth Gibson:** Thank you very much for letting me in, convener. The Western Isles have a population of 20,000. There is a health board, a local authority and an integration joint board.

Would it not be better, including on efficiency grounds, if that was all part of one structure?

**Robert Emmott:** That is very much our position—there is a real opportunity to look at how we best provide services for a small population over a huge geographical area. There are challenges, because of how those different organisations, particularly the NHS, work.

**The Convener:** Mr MacArthur, this is your opportunity to make closing comments.

**Alastair MacArthur:** In a similar vein, in Renfrewshire, over the past couple of years, we have been attempting to move forward in a much more structured way with our community planning partners to arrive at a consolidated view on what total resources are available in the area and how we can best use them to address the issues that local communities have. That is maybe not the same as Robert Emmott's suggestion to create a single organisation to deliver public services. It is about having a wider, much more community planning-based approach, rather than having individual public sector organisations doing their own thing and planning in isolation, which is what we are trying to overcome.

**The Convener:** The committee is very conscious that both the witnesses work in an environment where they are driven not only by the numbers, but by the policies of the administrations, and that they must plan on that basis. I hope that our questions have reflected how they must work their way through that process, irrespective the numbers that flow from the Scottish Government. I thank them for attending and giving evidence to our committee to help us to understand that process better.

That ends agenda item 1. I will suspend the meeting for a short comfort break before we move to agenda item 2.

12:08

*Meeting suspended.*

12:13

*On resuming—*

## **Commissioner for Ethical Standards in Public Life in Scotland—“Annual Report and Accounts 2016/17”**

**The Convener:** For item 2 we are joined by the Commissioner for Ethical Standards in Public Life in Scotland. The committee will take evidence on the commissioner's “Annual Report and Accounts 2016/17”. As members will be aware, the Standards, Procedures and Public Appointments Committee will also take evidence from the commissioner on his annual report and accounts at its meeting next week. I welcome Bill Thomson, the Commissioner for Ethical Standards in Public Life in Scotland, as well as Claire Gilmore, senior investigating officer, and Ian Bruce, public appointments manager, from the commissioner's office. There is no opening statement, so we move straight to questions.

**Graham Simpson:** In one year you have spent £949,000 and dealt with 224 complaints, only 18 of which found a breach of any sort of code, which is less than one in 10. A crude breakdown based on what you have spent on those 18 cases gives us a figure of about £53,000 per case that ended up as a breach, so in the vast majority of the cases that you dealt there was no breach. Do you not think that that is a colossal waste of money?

12:15

**The Convener:** There is nothing like a diplomatic question to open up an evidence session. Who would like to respond on the question of value for money?

**Bill Thomson (Commissioner for Ethical Standards in Public Life in Scotland):** I have been asked a question of that nature before.

**Graham Simpson:** Last year.

**Bill Thomson:** I pointed out then that one third of my budget is not even spent on conduct complaints, so I am disappointed that that did not register. Even on the crude calculation, the figures are wrong. Behind that question there is an implication that the complaints that do not go forward as breaches are valueless, and I am not sure that the people who submitted those complaints would agree with that.

**Graham Simpson:** That is a very brief answer. The point that I am making is that, every year—not just this year—you deal with hundreds of complaints but only a tiny amount end up with a finding of a breach. Surely you must accept that a

large percentage of those complaints are simply spurious. You are looking puzzled, Mr Thomson, but the biggest number of complaints are in the category of disrespect, which could mean all sorts of things. It could mean a mild insult. I could mildly insult Mr Gibson, who is sitting on my right, and he could issue a complaint that you would have to deal with. That would cost the taxpayer money, but it would be an entirely spurious complaint. My point is that we seem to be wasting a lot of money dealing with frankly trivial complaints, whereas we end up with only 18 cases out of 224 in which you have found a breach.

**The Convener:** It would be helpful for the committee to know whether, although anyone can make a complaint, there is a filtering and gate-keeping process for deciding how quickly some complaints are processed and investigated, and what happens with the ones that are not actioned or investigated in greater detail. Is there a sifting system? Mr Simpson is talking about potentially spurious complaints, so it would be helpful to know that.

**Bill Thomson:** I mentioned last year that we had introduced a process that I called initial office assessment, and we still run that process. There is, as the name suggests, an initial assessment when the complaint comes in. Some are entirely outside my jurisdiction; they may not even relate to councillors, or they may relate to things that are entirely outside the role of councillors and are therefore not covered by the code.

I agree that disrespect can cover a broad range of things, some of which are certainly trivial, but I am not sure that I would call them spurious. If somebody goes to the trouble of making a complaint, they rarely regard it as spurious. Some of those complaints end up with the councillor against whom the complaint has been made being suspended, and I would suggest that such complaints are not in any way trivial or spurious. If the political will of the Parliament is that time should not be spent on such complaints, that is an option that you can pursue in terms of legislation.

**Graham Simpson:** We will come on to that, but there might be supplementary questions.

**Elaine Smith:** Thank you for joining us, Bill.

During that line of questioning, it occurred to me to ask you—I do not think that there is anything in your report about this—whether you have the ability to deal with vexatious, vindictive or politically motivated complaints. If you notice or come to the conclusion that a complaint is of that nature, do you have a way of dealing with it?

**Bill Thomson:** Under the legislation, I do not, but a couple of years ago, I suggested to the predecessor committee that there could be some sort of order of priority for dealing with cases that

would allow some not to be followed through. That suggestion did not find favour with the committee, so, at the moment, I am required to investigate all complaints that come to me, regardless of the motivation.

On average over five years, 80 per cent of the complaints come from members of the public, but that does not mean that they are all unconnected to the political process. The complaints—we are talking about councillor complaints here—that come from councillors over that period average about 19 per cent of the total. Some of them are clearly politically motivated, and some of them might well be tit for tat. Of course, that does not mean that the subject of the complaint is irrelevant, spurious or trivial; it might be quite serious.

**Elaine Smith:** Indeed, but that is not what I was asking about. A matter that some people might consider to be irrelevant or trivial might be considered by others to be extremely serious. I am trying to explore the issue of the more vexatious complaints. Is any recourse available to you that would put people off making such complaints?

**Bill Thomson:** If that were to be done, I would need some authority to do so, and as things stand, I do not have that.

What I can say is that I do not have a number of regular complainers. Over the years, there have been some elected members who have put in quite a number of complaints, and those same individuals tend to have had a number of complaints made against them. It seems to be a way of working. However, I am not in that position at the moment.

The situation is not like the one that existed with petitions in the early days of the Parliament, when people would read the newspapers and decide that they ought to submit a petition, and 20 petitions would be received on the same subject. We are not in that position at all.

**The Convener:** It has been drawn to my attention—I am sorry that I missed it—that you mentioned in one of your replies that it is not within your power to prioritise or to have a hierarchy of complaints, and that you must treat each complaint in the same way, using the same process and the same mechanism. Would you like to have the ability to prioritise different categories of complaint in different ways?

**Bill Thomson:** At the time at which I first made that suggestion, the number of complaints was going up almost inexorably, and I was concerned that it would not be possible to handle them all without significant additional expenditure or limiting the complaints that were looked into.

I have a general statutory power to decide whether to investigate a complaint, but I am, of course, covered by the general administrative law, so if I were to act unreasonably, my decisions would—rightly—potentially be subject to judicial review. I accept that that would be an extreme position to adopt, but I do not want the office to be in a position in which it is being legally challenged all the time and is spending a lot of effort and money responding to legal challenges rather than—as we do at the moment—filtering complaints and investigating only those that appear to have substance.

**The Convener:** That was helpful.

I have some other questions, but I can hold them back if other committee members want to ask a question.

**Kenneth Gibson:** I want to ask one about credibility and consistency. Let us say that there are two MSPs sitting next to each other in a committee meeting, both of whom fail to declare an interest, and someone who is watching on telly at home decides to make a complaint about one of those members not declaring an interest, but not about the other one, who has also failed to declare an interest.

As you know, Mr Thomson, I have corresponded with you on the issue. You will investigate the member about whom a complaint has been made, but the fact that the other member, too, has allegedly failed to declare an interest does not even get considered. Where is the consistency and credibility in such a system?

Surely where something like that is supposed to have happened, you investigate either all cases or none, instead of saying, “Nobody complained about this person, so they don’t have to bother declaring an interest, but somebody complained about you, so we will investigate the matter—and by the way we’ll take eight or nine months to do it.”

**The Convener:** Your response, Mr Thomson?

**Kenneth Gibson:** And I should say that I am talking about my own case. [*Laughter.*] No—I am being serious. I feel really embittered by the whole process, to be honest with you, but I am not going to go into any detail. The crux of it is: two people do the same thing, but one gets investigated and the other does not.

**The Convener:** What are your reflections on that, Mr Thomson?

**Bill Thomson:** First of all, I will give a lawyer’s answer. The second person allegedly did the same thing; it might not have been investigated to the point where it was established. It is probably the case with most regulatory systems outside totalitarian states that it is those things that come to the regulator’s attention that are investigated.

If you wished my role—or, indeed, the role played by somebody completely different—to be going around investigating potential breaches, we would have to operate in a completely different way. Obviously, I am familiar with Mr Gibson’s circumstances; I am not going to go into the detail, but I understand why he is irritated. However, we are talking about quite a step from the system that we have at the moment, in which anyone can make a complaint—and I appreciate that that might mean that some are spurious, to use Mr Simpson’s word—to a system in which the regulator effectively goes looking for trouble and investigates things. To be blunt, there is nothing to stop someone in the position that Mr Gibson felt himself in making a complaint about the other person.

**The Convener:** I actually have a supplementary on this specific issue, Mr Gibson, but I know that it is very personal to you, so would you like to explore it a bit further?

**Kenneth Gibson:** I am sorry, but I am not prepared to make that sort of complaint about someone, because I do not feel that it is worthy of such a huge investment of public money. After all, these things happen in the chamber at least once a week—and sometimes more than once a day—and the Presiding Officer says, “That’s a matter for the individual member.” Quite frankly, there is no way that I would complain about a member, given that that is what happens in the chamber.

**Bill Thomson:** If others agree with that, why would there be any expectation that I or my successor would investigate it?

**Kenneth Gibson:** In my view, there was no such expectation.

**The Convener:** Can we take this away from the specific circumstances and look at the general issue? What if one of us in here were to follow a line of questioning on a matter in which we had a direct interest that we did not declare, either deliberately or just because of an oversight? If a complaint were made, you would have a duty to investigate why that interest was not declared. In theory, however, the other members—there are five of us left, I see—could have done the same thing at the same meeting. I wonder whether, for the sake of consistency, you could be given some permissive power to ensure that you investigated the environment—the general context—of the debate to see whether more than one person did the same thing. In other words, you would investigate the conduct of all the members at that meeting. There must be some way of looking at the general context instead of one person being singled out or targeted. It is probably a crazy idea, but I used the phrase “permissive power” to describe some way of carrying out a wider investigation. If a complaint is made but in the

course of your investigation it comes to your attention that four or five elected representatives did not, for whatever reason, declare an interest, surely for the purposes of consistency you should look at the issue in the round instead of focusing on one individual.

**Elaine Smith:** Can I put that question in a different way?

**The Convener:** Perhaps we can get an answer to my question, and then you can come in.

**Elaine Smith:** It is the same question.

**Bill Thomson:** I have to say that that is not a power that I am seeking, and it would cost money.

**The Convener:** That was a pretty short answer. Perhaps the deputy convener can ask the question differently.

**Elaine Smith:** I will ask it differently. If you were investigating that one person, but in the course of your investigation you became aware that the other four had done the same thing, would that be reflected in the way in which you dealt with the complaint?

12:30

**Bill Thomson:** I would narrate that circumstance when I was reporting, I think. Remember that I do not, ultimately, make the decisions. If we are talking about MSPs, I report to the Standards, Procedures and Public Appointments Committee of this Parliament, and if that had come out and I had reported it—which I think that I would have to do—I would expect that to be taken into account by the committee when looking at it.

In dealing with councillors, I have actually been in a situation in which I encountered something while investigating one complaint. In the particular circumstances, the complaint was not substantiated but something else had happened, so I reported on the other thing that was uncovered in the course of investigating the complaint.

**The Convener:** Was that even though that person had not been complained about in relation to that matter?

**Bill Thomson:** They were complained about, and I am bound to say that it was not hugely welcomed when I did—

**The Convener:** Mr Thomson, it does not matter.

If someone made a complaint against me for pronouncing the Gaelic for the Western Isles wrongly today, you might say that that was ridiculous and really out of order, but in the general research into that complaint you might find

something else that had been done. Would that then go forward? I am not sure what you mean.

**Bill Thomson:** No. I misled you, convener; it was not as wide as that. Taking your example, it was more like mispronouncing some other word—it was a related issue.

**The Convener:** I am trying to tease out the consistency aspect, which is incredibly difficult. If no one else wants to come in on that, we will move on to other lines of questioning.

The types of complaint that you get have changed a bit and, in general, their number seems to be going down. In particular, looking at complaints by category, it appears that the number on misconduct on individual applications continues to show significant decline, from 97 in 2013-14 to just 15 in 2016-17. Can you explain about those cases, comment on other types and say why you think the pattern may be altering?

**Bill Thomson:** In 2016-17, we saw what I hope was the final blossoming of complaints about disrespect. They reached their highest level at that point and have gone back down this year, to date. The percentage of complaints about failure to register or declare an interest remains fairly constant.

From time to time, there are complaints about breaches of confidentiality—a handful each year. Those cases can be quite serious because they can be about sensitive personal information. A case that the Standards Commission decided was not serious at all was about information in a board paper that was going to become public after the weekend, although it was confidential at the time.

Recent complaints about misconduct on individual applications have involved councillors making representations on their own behalf in relation to planning applications—either their own or ones that had a direct impact on them—which is, of course, wholly inappropriate.

**The Convener:** Has that number fallen significantly?

**Bill Thomson:** As things stand, yes.

**The Convener:** I want to get beneath the figures. In one respect you could say that it is a good thing that the number of complaints is falling. It could mean that elected representatives are getting it right and are being more consistent in their approach to public life, or that the complaints that are coming in are less vexatious. However, it could also mean that there is less awareness of the complaints mechanism, so people are not exercising their right to make complaints. I am keen to hear your explanation of that trend.

**Bill Thomson:** This is a guess, and it feeds back to the initial line of questioning. The



blossoming, as I put it, of disrespect complaints was down to the then impending local government—and, for that matter, Scottish Parliament—elections. Out of almost 100 disrespect complaints in the past four years, 57 related to things that were said in meetings, of which almost all were from people who had taken exception to what had been said by another councillor at a meeting.

The next biggest category of complaints related to social media, in which there was a mixture of cases involving councillors and cases involving councillors and members of the public.

A couple of misconduct in applications cases concerned councillors who had chosen to make their positions clear in advance of a decision's being made, but had then gone on to take part in making the decision. In relation to regulatory applications, that is against the code of conduct. I presume that they did so for political reasons, in order to represent their constituents, but that is not in line with the code, so they found themselves in trouble.

**The Convener:** I will return to that issue and let other committee members ask about it, but I have a question on disrespect. If there is more than one elected representative in a forum—a council meeting, a parliamentary meeting or a discussion on Twitter or Facebook—and they all, for lack of a better expression, give as good as they get, and a complaint is received about only one of them, should you have the power to investigate all of them, in that context? Would not it be seen as odd if you did not do that?

**Bill Thomson:** This might be cowardice on my part, but I have no desire whatsoever to plough through a three or four hour council meeting and make pronouncements on the appropriateness or otherwise of all of the interventions that are made. I think that such things have to be self-policed.

**The Convener:** I accept that, but by definition, the situation has not been self-policed if one person in the public gallery says that Mr Doris, Mr Simpson or Mr Gibson—never Mr Stewart or Ms Smith, of course—was acting in a manner that was unbecoming of an MSP and reports one of them—

**Graham Simpson:** I think that you are disrespecting Mr Gibson and myself, convener.

**The Convener:** Absolutely—and I encourage Mr Thomson to go through the back catalogue of the meetings of this committee and investigate those two members.

It would seem odd if, in the course of looking at the conduct in that meeting, you noted that it was a heated meeting and that everyone was giving it a bit of welly, but you investigated only one person

because the complaint concerned only one person.

**Bill Thomson:** The circumstances that you are describing would probably not be reported as a breach. The instances that are reported as breaches involve circumstances in which somebody has stood out.

**The Convener:** I cannot believe that I used the expression

“giving it a bit of welly”.

I apologise.

**Kenneth Gibson:** I want to ask a straightforward question. How do you define disrespect? What one person considers to be disrespect might be considered by another to be simply a robust exchange of views—assuming that it did not involve the person swearing at or threatening someone.

**Bill Thomson:** That is a fair question, but it is quite difficult to answer. The issue is complicated by the enhanced right of freedom of expression in relation to matters relating to politics and public administration under article 10 of the European convention on human rights, which comes up in such cases. There is no straightforward answer. I do not want to go into specific examples, because that would involve singling out individuals unfairly. However, there have been attempts at humour that were in very bad taste.

There is no straightforward answer to the question. In one European case, a person accused the mayor of a town of embezzlement, and the court held that to be within the rights of that person under article 10 of the ECHR. That means that even accusations of criminal behaviour can come within the limits of freedom of expression.

The cases that I have reported tend to be personal, clearly abusive or in extremely bad taste for some specific reason.

**Kenneth Gibson:** But the judgment is subjective rather than objective.

**Bill Thomson:** Of course the judgment is subjective but, thankfully, it is not just my judgment: I report to the Standards Commission, which does not always agree with me. I think that that is a strength in the system, albeit that there is a cost involved.

**Graham Simpson:** You mentioned councillors who publicly express a view on planning applications—I presume that that is what you meant—and who go on to make decisions on those applications. That is at the heart of the code of conduct for councillors, which I understand might be revised. Have you had any discussions with the Scottish Government about that?

**Bill Thomson:** The Scottish Government sought my views on one particular proposal. It is not particularly tricky, but there is a dispensation for councillors who are appointed to certain other public bodies when they are considering things that might affect the council, and I was consulted about that. My view was that if councillors were commenting on a regulatory matter in which the council had an interest, the dispensation should not allow them to participate. We have been talking about declarations of interests. As I understand the code, among its objectives are transparency and ensuring that people who have vested interests in a decision do not participate in that decision. That is how the law is at the moment.

**Graham Simpson:** I mentioned councillors expressing views on planning applications. Why should that debar them from going on to vote? That has always mystified me about the code of conduct.

**Bill Thomson:** The theory—the law—requires that decisions on planning applications—and, for that matter, other regulatory applications, including on houses in multiple occupation or taxi licensing—should be based on all the relevant facts and should not take account of any matters or considerations that are not material. A councillor who represents views from his or her constituency, in advance of their being apprised on subjects that are material, may well reach a view that is based on only one side of the story. If the councillor then carries that forward into the decision-making process and votes on that basis, they may have failed to take account of some material facts.

**Graham Simpson:** Or, they may not have. Let us say that the councillor express an initial view a couple of months out, when an application is first made. That debars them from changing their view when it comes to a meeting. It is an absolutely absurd situation.

Your discussions with the Government appear to have been quite narrow, which suggests that the Government is not looking at a wholesale review of the code of conduct. Would I be right in thinking that?

**Bill Thomson:** That is my understanding.

**Graham Simpson:** Do you think that it is time for a refresh?

**Bill Thomson:** There are parts of the code that could be improved.

**Graham Simpson:** Which parts could be improved?

**Bill Thomson:** I have said this before—I do not wish to take too much of the committee's time. The particular problems seem to me to be

paragraphs 3.14 and 3.15, which relate to confidentiality. They are not very well expressed and are causing quite a lot of difficulties.

In section 5 of the code, on declarations of interests, there is a thing called the objective test—I am sure that Mr Simpson is familiar with it—that is supposed to apply when councillors are deciding whether they have to declare an interest. It appears five or six times in section 5 and is expressed differently in some places, which is not at all helpful. Although I have not been asked about this, I think that section 5 is quite difficult and is becoming more difficult, as councillors become involved in other bodies in respect of which there may be conflicts of interests—for example, integration joint boards.

There was one error in the code: it referred to annual reminders about declaring interests, whereas the regulation requires that an interest be declared within a month. I believe that that is one change that will be made.

I have an issue about the key principles appearing up front. I accept that the statute requires them to be there, but they are given prominence by being at the front. A problem that we had—certainly when I started in office—was that a very large percentage of complaints related just to the key principles and therefore were not specific to any of the rules that can be broken. A person cannot contravene the key principles under the code, which I think is probably right.

12:45

Our initial office assessment process is now such that if somebody simply makes a complaint that councillor so and so has failed to show respect under the key principles, we will ask them for the detail of their complaint, so that we can then decide whether it involves a breach of a specific rule. We do not just leave the complaint there and reject it; we explore it.

**Graham Simpson:** The revised code will come before this committee. From what you say, it sounds as though we ought to look at the code as a whole rather than just focus on one narrow area.

**Bill Thomson:** In an ideal world.

**Graham Simpson:** That is our job.

**The Convener:** You have directed us to one part of the code that you think would require specific attention if that were to be what we would do, and if that might also be helpful.

**Bill Thomson:** There are actually two parts: a couple of paragraphs in section 3 and then section 5. The most complicated bit is probably section 7, which I think was what Mr Simpson was referring

to as regards councillors' obligations on planning. That is quite difficult.

Another area of difficulty that is of particular interest to council officials is annex C to the code, which deals with the relationship between councillors and officials. Paragraph 20 says that councillors must not comment in public on the conduct or capability of officials. As that stands, if we take it literally, it is nonsense, because it means that we could not say, for instance, that Jane Williams, who is the clerk to the committee, had done a wonderful job in doing such and such.

**The Convener:** We can say that. We can say it on the record right now, Mr Thomson.

**Bill Thomson:** You can say it, because the restriction is not in the "Code of Conduct for Members of the Scottish Parliament". However, it is in "The Councillors' Code of Conduct", where it is interpreted as being that councillors should not publicly criticise officials. Of course, that becomes difficult to reconcile with the scrutiny role of councillors and with article 10 of the ECHR. It is a bit of a problem area.

**The Convener:** Might it, for example, restrict councillors' ability to scrutinise and analyse certain key documents that the council has produced? In effect, they might be suggesting that the quality of a document was not up to standard and would not withstand scrutiny.

**Bill Thomson:** There are people who think that it could. I do not think that it can, legally, because of article 10, but it is problematic.

**The Convener:** That would certainly be worrying.

As Mr Simpson does not have anything to add, we will move to a question from Alexander Stewart.

**Alexander Stewart:** Recently, we have seen a focus on harassment, bullying and harassment of a sexual nature. How do you think the way in which people make complaints will be affected? As things move forward, what will be your role and what work will the commission have on that? Do you see yourself as being actively involved? Your views and opinions would be useful.

**Bill Thomson:** The initial office assessment would identify whether the complaint appeared to be of such a nature that it could involve a breach of the criminal law. In such circumstances, we would refer it directly to the appropriate authorities, so we would not be involved in such a complaint at that stage. However, we could be involved after any criminal process—whatever that might be—had been concluded. It would be possible for there to be circumstances in which there was an absence of proof beyond reasonable doubt, which is the standard in criminal cases, but there could

still be considered to be a complaint that could be pursued on the civil standard of proof, which is the balance of probabilities. Therefore it is theoretically possible that we would be involved.

Despite the comments that have been made on the issue so far, the basis for any involvement would be the requirement to treat people with respect. I did not want to go there earlier, but that is an area of disrespect—if I might put it that way—that could develop. To go back to the earlier comments and questions about things being spurious or trivial, attitudes to conduct of that nature are changing for the better. Things that, some time back, might have been viewed as trivial or even spurious would not be viewed as such now, and that is a good thing. It is possible that a complaint of that nature could come forward. There was one public hearing in which the nature of the disrespect was an attempt at humour that involved sexual innuendo, and the councillor in that case was suspended. However, that is unusual in my experience to date.

Does that give you a flavour of where I think the issue might go?

**Alexander Stewart:** Yes. In the current climate, there are bound to be issues that come forward that you might have to deal with, depending on how it is perceived. You talk about bullying and about how information is given out at official and councillor level. There needs to be co-operation between the councillor and the official about what information the councillor requires to fulfil their role and it can sometimes get quite heated, depending on the political nature of the situation, and depending on the type of meeting or group or where the exchange takes place. As the floodgates have opened in some respects for other professions, there might be more coming in their direction—and our direction—because of the nature of their job. That will potentially have an impact on you.

**Bill Thomson:** I agree.

**The Convener:** It would be inappropriate for the committee to not raise that issue, given events in recent weeks and months. We are seeking clarity that you are not missing it. We want to know that you are sensitive to the issue and that you are following events and making sure that your office is prepared to act as it should if there is an increase in complaints in that area. We do not expect to hear anything other than, "Yes, of course I am," but this is an opportunity to put some of that on the public record.

**Bill Thomson:** Yes, of course I and my office are carefully following things. Our role is to investigate, assess and report, but we have no counselling skills. That is the only caveat that I will make at this stage.

**Elaine Smith:** I am not quite clear what you mean by that.

Councils are quite macho places. In your report, you rightly talk about representation on boards, which we discussed in Parliament last week and over which we can have some degree of control and influence. However, in terms of representation in councils at elected member level, political parties, for instance, have to take that on board. With that issue now being highlighted, I think that there will be a cultural shift. You mentioned that you would refer directly to the police instances of sexual harassment in which the behaviour was criminal, but there is also sexual harassment behaviour that is not criminal. When you say that you are not involved in counselling, I am not quite sure what you mean.

I would also like clarification on another issue for which I will give you an example. As a trade union representative a number of years ago, I had to raise an issue with someone about a calendar in their office. The way that I raised it was to refuse to participate in a meeting that I was invited to until the calendar was removed, at which point I would come back. I take it that that would be non-criminal behaviour that could be referred and that you might deal with if someone complained about it.

**Bill Thomson:** Yes.

**Elaine Smith:** When you said "counselling", what did you mean?

**Bill Thomson:** It depends. I am simply stating that the role that I understand that my office is to play is to investigate, and to do so impartially. I was previously asked what support we give to people who make complaints. There is a difficulty if you are meant to be an independent investigator but you are perceived as attempting to give support to one side in the process. Although we will of course investigate to the best of our ability, that is all that we can do.

**Elaine Smith:** Could you give impartial advice by signposting people to different organisations? Is that possible?

**Bill Thomson:** Yes.

**Elaine Smith:** So you could perhaps get round it that way.

**The Convener:** We are almost out of time so I will just ask a final couple of questions on that particular issue.

You are absolutely right, Mr Thomson, that your independent investigatory role is appropriate, and counselling is not part of that. However, would you perhaps seek to develop links with agencies that provide counselling and signpost individuals—complainers and complainants—to them? That

might be appropriate. If someone gives a statement to a member of your team, would they be able to have someone there in the room supporting and advocating for them at that point in the process? A bit of light and shade to your earlier answer might be helpful before we end the line of questioning.

**Bill Thomson:** We have already started to consider which bodies or individuals we might think of having some link with in order to be able to refer people, if appropriate. On your second question, yes, people can be supported when we interview them; that is already the position and we state that when we make contact with them.

**The Convener:** I suspected that that would be the case, Mr Thomson, but I wanted to give you the opportunity to put that on the public record. There are no further questions from members, but would you like to make any additional comments or observations?

**Bill Thomson:** No, thank you.

**The Convener:** I thank you and your team for coming along and for waiting.

We will move on to agenda item 3, which is draft budget scrutiny for 2018-19 and which we previously agreed to take in private.

12:56

*Meeting continued in private until 13:08.*

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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