



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 4 September 2013

Session 4

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**LOCAL GOVERNMENT AND REGENERATION COMMITTEE**  
**22<sup>nd</sup> Meeting 2013, Session 4**

**CONVENER**

\*Kevin Stewart (Aberdeen Central) (SNP)

**DEPUTY CONVENER**

\*John Wilson (Central Scotland) (SNP)

**COMMITTEE MEMBERS**

\*Richard Baker (North East Scotland) (Lab)

\*Stuart McMillan (West Scotland) (SNP)

\*Anne McTaggart (Glasgow) (Lab)

\*Margaret Mitchell (Central Scotland) (Con)

\*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Aileen Campbell (Minister for Children and Young People)

Jim Carle (NHS Ayrshire and Arran)

Eddie Fraser (East Ayrshire Council)

Craig Given (Inverclyde Leisure)

Carol Kirk (North Ayrshire Council)

Dr Anne Mullin (GPs at the Deep End)

Alex Neil (Cabinet Secretary for Health and Wellbeing)

Philip Raines (Scottish Government)

Merrill Smith (Dundee City Council and VOCAL)

Felix Spittal (Scottish Council for Voluntary Organisations)

Nicola Sturgeon (Cabinet Secretary for Infrastructure, Investment and Cities)

Mary Taylor (Scottish Federation of Housing Associations and Member of Housing Co-ordinating Group)

Kieron Vango (Inverclyde Leisure)

**CLERK TO THE COMMITTEE**

David Cullum

**LOCATION**

Committee Room 6



**Scottish Parliament**  
**Local Government and  
Regeneration Committee**

*Wednesday 4 September 2013*

[The Convener *opened the meeting at 09:00*]

**Interests**

**The Convener (Kevin Stewart):** Good morning and welcome to the Local Government and Regeneration Committee's 22nd meeting in 2013. I ask everyone to switch off all mobile devices, please.

Item 1 is a declaration of interests. I thank John Pentland for his contribution to the committee. I am sure that committee members join me in wishing him all the best in his new roles. I welcome to the committee Richard Baker and ask him to declare any interests that are relevant to the committee's remit.

**Richard Baker (North East Scotland) (Lab):** I declare that I am a member of the Unite trade union.

**Decision on Taking Business in  
Private**

09:00

**The Convener:** Under item 2, do we agree to take items 6 and 8 in private?

**Members** *indicated agreement.*

## Subordinate Legislation

### Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2013 [Draft]

09:00

**The Convener:** Item 3 is consideration of a Scottish statutory instrument that is subject to affirmative procedure and which seeks to extend the provisions of the Freedom of Information (Scotland) Act 2002 to include arm's-length external organisations—also known as ALEOs—that local authorities have established to deliver leisure and culture services. Members have a copy of the SSI, along with a cover note from the clerk.

We have two panels of witnesses to discuss the SSI. The first panel consists of witnesses who represent ALEOs, local authority leisure and culture directors and the voluntary sector. The witnesses have made submissions, which members have.

I welcome to the committee Kieron Vango, who is chief executive, and Craig Given, who is finance and resources manager, from Inverclyde Leisure; Merrill Smith, who is the head of leisure, culture and communities policy at Dundee City Council and treasurer of VOCAL, which is the voice of chief officers of cultural and leisure services in Scotland; and Felix Spittal, who is a policy officer at the Scottish Council for Voluntary Organisations. We have a very busy agenda, but we will allow very brief opening statements. Who wants to go first?

**Kieron Vango (Inverclyde Leisure):** We have no opening statement.

**Merrill Smith (Dundee City Council and VOCAL):** I have no opening statement.

**Felix Spittal (Scottish Council for Voluntary Organisations):** The SCVO supports the draft order, which will extend the 2002 act to cover leisure and culture trusts. We also support the extension of FOI legislation to other arm's-length bodies and we hope that further action will be taken in the coming year to cover those bodies. We support the principles of FOI and the public's right to know.

**The Convener:** I will start the questioning by asking Mr Vango and Mr Given about the current situation with Inverclyde Leisure. Your submission says that responding to some FOI requests would be costly. What do you respond to at the moment? I imagine that you get a number of questions from the public about your services.

**Kieron Vango:** We have a customer comments procedure, which deals mainly with operational issues. The situation would depend on what the freedom of information request concerned. In our submission, I gave an example of a request about pool-water tests, which could take a lot of time and resource for us to answer.

Most of the comments and complaints that we deal with involve letters going backwards and forwards. We try to appease customers.

**The Convener:** Your submission mentions that, in a previous life with Glasgow City Council, Mr Given knew of a person who kept making FOI requests because he was not getting a meeting to discuss a matter. What should be done about such vexatious situations?

**Craig Given (Inverclyde Leisure):** In that situation, what was said was more of a threat than something that was carried out. The council that I worked for had no choice but to meet the customer, because of the FOI threat that the customer made.

**Kieron Vango:** We had one such case recently. I am new in my position—I have been in position for only three months. Restructuring took place just before I took charge; one member of staff who had been affected by the restructuring threatened to keep putting in freedom of information requests to disrupt the organisation. Obviously, if our focus was on that, it would not be on our charitable aims.

**The Convener:** In the circumstances, would not it have been easier just to meet the man to discuss whatever issue he had?

**Craig Given:** It was not a matter for me, but I agree that that would probably have been the best idea.

**The Convener:** If a policy was in place to meet people who have complaints, there would not be the possible threat of vexatious FOI requests.

**Craig Given:** At Inverclyde Leisure, we do meet people.

**The Convener:** Good. I am glad to hear that. Are there any other comments? The SCVO has submitted the very clear view that the powers should be extended. Do you want to add to that?

**Felix Spittal:** I will just reiterate what we have said. ALEOs are a special case and are exactly what section 5 of the Freedom of Information (Scotland) Act 2002 was designed for. They are governed by and receive money from local authorities, and they deliver public services. It is clear that they exercise functions that are of a public nature.

**Margaret Mitchell (Central Scotland) (Con):** Good morning, everyone. Inverclyde Leisure's

submission contains some misgivings about confidentiality. I understand that, from 2014, the FOI regime will apply to all culture, sport and leisure ALEOs, which means that existing contracts will be covered. Do you see that as a problem?

**Kieron Vango:** If the regime comes in, we will make sure that we have the systems and procedures to ensure that we comply.

**Margaret Mitchell:** Will that apply just to new contracts or will it also apply retrospectively?

**Kieron Vango:** The regime will apply retrospectively. We will have to organise to ensure that our filing systems are up to date. What do you say, Craig? You have been in position for longer.

**Craig Given:** We will do what we are required to do. Because of how we are structured at the moment, we will need to work out how we can do what we are required to do, but we will be able to do it.

**Margaret Mitchell:** Okay. The decision to extend the FOI regime to ALEOs seems to be rather limited, in that it will not apply to all ALEOs. I know that the SCVO has a view on that. Does Inverclyde Leisure have a view on why the regime is not being extended more widely? It seems to cover only culture, sport and leisure.

**Kieron Vango:** We are a charitable leisure trust that offers cultural activities for the community and we have a funding agreement with our local authority, but plenty of other people and voluntary organisations are funded by the public purse, so I see no reason why the regime should not be extended to all of them.

**Margaret Mitchell:** You are talking about voluntary organisations.

**Kieron Vango:** I am talking about voluntary organisations as well. The principle is the same, whether or not the work is voluntary. We offer a service to the community and we have volunteers within our organisation. We are a charitable leisure trust; I think that our situation is the same.

**Margaret Mitchell:** Is a key distinction the fact that you have that link to your local authority?

**Kieron Vango:** We have a link, through the funding agreement, with the local authority, but that does not mean that we could not operate, within our memorandums and articles, throughout Scotland, as long as the board approved that. For example, I could run leagues in Aberdeen, or wherever, that would not be part of the local authority funding agreement. I would like to do that—I would like to expand our leisure and cultural activities to the whole of Scotland.

**Margaret Mitchell:** Nonetheless, there is a distinction between the third sector—the voluntary

sector—and ALEOs in terms of how you are set up and your links with local authorities. Do you accept that?

**Kieron Vango:** Yes—there is a distinction in terms of how we are set up currently.

**Margaret Mitchell:** Would Felix Spittal like to elaborate on that?

**Felix Spittal:** Yes. That is certainly our position. The voluntary sector is the third sector—whichever term you prefer—and it is diverse. There are a lot of different legal structures and governance models, but there are some key principles that divide the sector from the public sector and it is important for us to protect those principles. One key principle is that the third sector is independent from local and central Government—and is seen to be so by the public—so we would not consider ALEOs such as Inverclyde Leisure to be part of the third sector.

**Margaret Mitchell:** In your submission, you suggest that the powers should be extended beyond what is proposed.

**Felix Spittal:** Yes. As regards the care services that are now being provided by ALEOs and that are starting to spring up—I think that Audit Scotland says that there are now 130 ALEOs, of which leisure trusts are just a few—there is, in principle, no good reason why FOI should not be extended to all arm's-length bodies.

**Margaret Mitchell:** Finally, you had some reservations about the definition of ALEOs in the order as being

“established or created solely by one or more local authorities”.

Can you suggest a better definition?

**Felix Spittal:** I do not have a better definition than that: it was mentioned to bring the point to the committee's attention. My concern when I read through the order was that perhaps organisations could work with another organisation when establishing a new body. Riverside Inverclyde works with Scottish Enterprise and others, so it could perhaps get around FOI because of that. I am not sure that it could; it was just something for the committee to consider.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** This question is a bit technical and will, largely, end up in the minister's in-tray, rather than in yours. The amendment is being made under section 5 of the Freedom of Information (Scotland) Act 2002 rather than under section 4, which would have added ALEOs to the schedule of public authorities. It seems to me that you are not being added to that schedule because you are not part of the Scottish Administration or of a

Scottish public authority with mixed functions or no reserved functions. Is that your understanding?

**Kieron Vango:** Yes.

**Stewart Stevenson:** One effect of that, of course, is that you are not part of schedule 1 and so section 44 of the Climate Change (Scotland) Act 2009, which refers directly to the schedule 1 list and places duties on public bodies related to climate change, would not apply to you. Do you nonetheless feel that you would voluntarily wish to sign up to those duties, given the kind of activities that you undertake and given that bodies that remain part of the public sector and are undertaking identical functions would be covered by section 44 of the 2009 act in relation to climate change duties?

**Kieron Vango:** I can speak only for Inverclyde Leisure. We have been in favour of signing up. My previous company had ISO 14001 certification, which we will seek to adopt in Inverclyde Leisure as well, so I think that the answer is yes.

**Stewart Stevenson:** That is helpful. Thank you.

**The Convener:** Does anyone else wish to comment on that highly technical question? Mr Vango managed it.

Ms Smith, as regards local authorities and VOCAL, what role do you think that you can play in helping ALEOs meet these FOI requirements?

**Merrill Smith:** VOCAL feels that the ALEOs should be included in FOISA because the vast majority of them—if not all—came from local authority service provision and therefore were previously covered by FOISA. With the move to the creation of ALEOs, we think that that coverage should continue and that ALEOs should be open and transparent. Any ALEO out there that is involved in culture and leisure should want to be transparent and should want to take on those requirements. I am going to be very rude and say that I cannot quite exactly remember your question.

**The Convener:** I asked how local authorities and VOCAL can help ALEOs to meet the provisions of the act.

**Merrill Smith:** All local authorities now have an officer, if not a full-time one, or a team, on FOISAs. We are suggesting that ALEOs are all connected to a local authority or multiple local authorities so the local authority FOISA officer could provide assistance and training, as could VOCAL: we represent quite a range of different organisations, so we could also provide help, assistance and training.

09:15

The big thing is that when a new ALEO is established, the largest percentage of its staff are ex-local authority. They are used to FOISAs because they have already done them; they know the processes and it is not a huge leap for them to be able to take them on. It would mean tapping into the local authority FOISA officer, whatever training VOCAL could give, and offices within the new or existing ALEOs that have experience of FOISAs.

**Stuart McMillan (West Scotland) (SNP):** Good morning to the panel. I should say at the outset that I am a regular user of Inverclyde Leisure's facilities because I stay in the area.

We had a briefing from the Campaign for Freedom of Information in Scotland, and one of the paragraphs that it highlights is from a recently published Audit Scotland report entitled "Arm's-length external organisations (ALEOs): are you getting it right?", which states:

"ALEOs by their nature are one step removed from council control and, as a result, governance and financial arrangements can be complex. There is a risk service users and citizens have less input and influence over how services are provided."

If Audit Scotland has said that, surely there is a legitimate reason for ALEOs to be included in freedom of information legislation?

**Kieron Vango:** I have no comment to add to what we have written. If it is the committee's decision that we come under freedom of information legislation, we will.

**The Convener:** Do you have anything to add, Mr Given?

**Craig Given:** No. I agree with Mr Vango.

**Stuart McMillan:** Okay. I have one other point about the submission from Inverclyde Leisure, which mentions pool temperature readings. Can you provide me with a bit more information about how that information is gathered and stored?

**Kieron Vango:** We used the pool temperature readings as an example, but such examples can take some time. The pool tests are done in the first-aid room five times a day. We keep an update of the pool readings—pH and chlorine—to make sure that the pool is safe for the customer to use. One sheet is done five times a day. It is done every day of the year including Christmas day and new year's day, to make sure that the information is up to date. I am not sure how far we can go back but if, for example, we were asked to provide pool readings for the past five years, that could be time consuming.

**Stuart McMillan:** Is that information in an electronic system, or is it just kept on paper?



**Kieron Vango:** Unfortunately, it is all kept on paper. Most of our information is kept on paper. We are changing over to electronic systems, but a lot of paperwork is still being done.

**Stuart McMillan:** If the regulations are passed, I take it that it would be a lot easier, were a freedom of information request to come in, for you to supply that information if it was in an electronic system.

**Kieron Vango:** Yes. I suppose we would have to scan in retrospective information, so initially we would be under the same type of pressure. However, we are looking at electronic systems to make our lives a little bit easier so that future requests are easier to deal with.

**John Wilson (Central Scotland) (SNP):** I have a supplementary question on the line of questioning from Mr McMillan. How long does the law say you have to keep the pool readings for environmental health services? I assume that there is a reporting mechanism.

**Kieron Vango:** I do not think that there is a legal stipulation for that—I will have to check—but we have a policy. For example, we could say that we have to keep the information for three years. As far as I know, we keep the readings indefinitely, but I am not sure about our policy at the moment.

**John Wilson:** I am quite surprised by your concerns around FOI requests, particularly those about pool readings. If you keep the information indefinitely, what is the problem with providing information that has been requested through an FOI?

**Kieron Vango:** The problem is just about copying the information and the time that it takes to deal with that. It takes time to go through all the information because it is done manually.

**John Wilson:** How much information do you have to provide to your 30 per cent funder, which is Inverclyde Council, on the operational running of the leisure services?

**Kieron Vango:** Council representatives attend board meetings six times a year, and we provide information monthly just to give some background on finances and on our activity in the Inverclyde area. So, we have two routes: monthly meetings and board meetings six times a year, which include discussion of finance and any development in the area.

**John Wilson:** Do you find those monthly meetings and reporting six times a year to be onerous?

**Kieron Vango:** No. We work in partnership with the local authority. It is good to have those meetings and it is a win-win situation for all of us.

**John Wilson:** The point that I am trying to make is about whether the information that the local

authority receives would be vastly different from what might be provided in response to an FOI request from a member of the public.

**Kieron Vango:** The issue is how far the information is drilled into. In the examples that I gave, there is no doubt that there would be an additional strain on resource. The information that the local authority gets is stuff that we produce anyway. There would be additional work.

**John Wilson:** Convener, I am trying to find the words in terms of trying to understand—

**The Convener:** I wonder whether I can help in some regard, Mr Wilson.

Mr Vango, what committee or other body in the council scrutinises Inverclyde Leisure and follows the public pound that the council gives? What kind of performance indicators do you have regularly to supply to that committee or body?

**Kieron Vango:** We have the monthly client meeting, which is what you are talking about. Craig—do you want to go into that?

**The Convener:** Can I stop you? There is a difference between the monthly client meeting and the point that Mr Wilson is trying to make, which is about the body of elected members in Inverclyde Council that scrutinises Inverclyde Leisure and to which performance indicator information is supplied. Is that information very different from the information that would be required to respond to likely FOI requests?

**Craig Given:** We need to supply significant information to the internal audit team. As Kieron Vango said, we report to the board, and the council representatives on the board will report to their side—

**The Convener:** I am sorry, Mr Given, but I am going to stop you again. I realise that you have your internal audit, but there must be some committee or other set-up in Inverclyde Council that follows the public pound that Inverclyde Leisure gets. I imagine that that body can also scrutinise your key performance indicators to ensure that best value is being achieved.

**Kieron Vango:** There are five councillors on the board and we present our KPIs to them.

**The Convener:** I am sorry, but you are still missing my point. With ALEOs elsewhere, there are elected members on the board—it is always thus—but the council or councils that supply the organisations with the funding to provide services normally have a committee or sub-committee that is tasked with scrutinising what is going on and following the public pound. Who does that in Inverclyde Council?

**Kieron Vango:** There will be such a committee. As I said, I am new to my position. The previous

chief executive would probably be able to give you the information.

**Craig Given:** The council's internal audit team carries out the checks on us. It will report to that committee in the council.

**The Convener:** So you do not regularly have to supply information directly to a council committee or appear in front of it to talk about what you are doing.

**Craig Given:** We do not appear before that committee, but internal audit does an audit on us regularly during the year. There is regular correspondence with the council about those procedures.

**The Convener:** Okay. I find that interesting.

**John Wilson:** Mr Vango raised the issue of inputting data from the five pool tests that are done each day. You currently keep that information in hard copy rather than recording it electronically. What would be the difference for Inverclyde Leisure if it were to input the information electronically? Mr Vango expressed a concern that if somebody made an FOI request for information about the pool tests that were carried out on, for example, 4 September, a member of staff would need to find the hard copy of the results and photocopy it before Inverclyde Leisure could provide the information, so it would take time and effort to search for the information. If you kept the information electronically, it would be a case of tapping a couple of buttons on a computer and printing off the information, rather than having to send somebody to the archives to get the information.

**Kieron Vango:** We are looking at an electronic system for storing such information—we had someone in to give us a presentation on that the other day. We realise that we need such a system and that it would make responding to such requests easier.

**John Wilson:** Would the material that is held on such an electronic system include all the information that you think may be subject to an FOI request?

**Kieron Vango:** I think that it would cover most of it. What do you think, Craig?

**Craig Given:** It is very difficult to comment, because there are a lot of ifs, buts and maybes in respect of what we will be asked. The point that we are trying to make is that we need to set up our organisation in that way in order to be able to deal with FOIs. Having worked in councils previously, I know what is involved in that. We will set ourselves up in such a way if the order is passed; the issue is to get ourselves into the position of being able to do it.

**Kieron Vango:** As has rightly been said, a lot of organisations and councils employ one person to deal with FOI issues. We will perhaps have to look at employing someone—maybe not a full-time post, but a part-time one—to deal with FOI requests.

**John Wilson:** Mr Given's answer leads me on to the question that I was eventually going to come to on the public perception of Inverclyde Leisure. The bottom left-hand corner of the headed paper on which Inverclyde Leisure made its submission says:

"Best Local Authority Fitness Gym in the UK".

Many members of the public do not realise that there is a difference between the ALEO that has been created to deliver leisure services and the local authority, particularly given that Inverclyde Leisure sends out letters on headed paper that states:

"Best Local Authority Fitness Gym in the UK".

People will make FOI requests and will expect to have them honoured, as they would do if they made the request to a local authority or another public body.

**Kieron Vango:** I agree. There is a perception, which perhaps also exists in a lot of the organisations that I work with, that we are part of the council.

**Richard Baker:** My question is for Merrill Smith. Are you aware of any local authorities that have expressed concern either about the proposal or about their ability to help ALEOs deal with the new requirements that will be placed on them when they come under the FOI legislation?

**Merrill Smith:** We are not aware that any local authorities have expressed worry about the proposal. Because of the mechanism under which they are set up, a lot of ALEOs—the wholly owned bodies, such as the Scottish charitable incorporated organisations—already fall under FOI legislation and are undertaking to meet its requirements. Some bodies have decided that they want to do it anyway and are already covered and are undertaking that work.

**Richard Baker:** You have partially answered what was going to be my follow-up question. Perhaps Mr Spittal might like to comment, too. There are plans—or, at least, intentions—to bring a number of public bodies into the ambit of FOI legislation. The Government seems to be starting with ALEOs. Even given your comments about the fact that some bodies are already implementing the legislation, do you think that it is right that they should come under the ambit of the act ahead of, for example, housing associations and so on?

09:30

**Felix Spittal:** I absolutely agree that that should happen. ALEOs need to come first, because they are a special case because of how they are governed. This piece of headed notepaper that I have before me, which is from Inverclyde Leisure, says:

“Managing leisure services on behalf of Inverclyde Council”.

It is clear to the public that such organisations are council bodies in everything but name.

With regard to dealing next with housing associations and so on, as long as there is a level playing field, we will have no problem with that. We have set out our position on freedom of information in our submission. If it is extended to all public services, it should be done through public contracts. That would be the fairest way to do it, because it would mean that voluntary organisations that perform perhaps only one public service but carry out a large volume of other work would not be disproportionately burdened by FOI.

**Anne McTaggart (Glasgow) (Lab):** My question has been partly answered already. What have you done in preparation for the possibility that the FOI extension will happen?

**Kieron Vango:** The umbrella organisation of which Inverclyde Leisure is a member, Sporta, is providing some FOI frameworks for us.

**Anne McTaggart:** Has there been a costing? Do you have a figure?

**Kieron Vango:** Sporta works with a number of organisations. It will provide the systems and procedures for us. We have not yet allocated resources to deal with the issue, but we have information about systems and procedures.

**Stuart McMillan:** Just to be helpful, it is the education and communities committee of Inverclyde Council that deals with Inverclyde Leisure.

**Stewart Stevenson:** I want to make a wee technical point. Section 1(2) of the order says that the order will come into force on 1 April 2014. Is it, therefore, your understanding that the amendment will cover only data that are created post that date?

**Kieron Vango:** From my colleagues in Sporta, I believe that information can be asked for retrospectively.

**Stewart Stevenson:** It is quite clear to me that, given that you will have the necessary processes in place, you will wish to be as co-operative as possible in relation to any data that have been gathered prior to that date, but it is not clear to me whether the legal position is that the provision would apply only to data that were gathered after

that date. However, that might be a matter for the minister.

**Margaret Mitchell:** I want to ask about exceptions to FOI and explore the issue of commercial sensitivity, which is mentioned in the Inverclyde Leisure submission. Could you say a little more about that?

**Kieron Vango:** The issues that we mentioned in the paper concerned situations in which we might subcontract to private organisations, as we do with Aulds the bakers, for example. I would have thought that it would be exempt, as it is a private organisation.

**Margaret Mitchell:** Is that a situation in which the contract might be renegotiated with an FOI clause being included? I think that that was mentioned with regard to the contract.

**Kieron Vango:** I suppose that it could be, yes.

**Margaret Mitchell:** I would like to tease out your concerns about commercial sensitivity, which is something that I have mixed feelings about. Of course, I can understand that there will be circumstances in which there is commercially sensitive information that is in danger of being compromised. Equally, I have often felt frustrated when the issue of commercial sensitivity is used to stop legitimate requests for information coming into the public domain. I would like all the panel members to talk about what they know to be exempt, what they think should be exempt and what they fear will not be exempt if the SSI is passed.

**The Convener:** Let us start with Mr Spittal, if Mrs Mitchell wants to hear everyone's opinion.

**Felix Spittal:** I have no additional comment on the issue.

**Merrill Smith:** My experience of FOIs is from a city council point of view, and I have never come across a request that has given us a worry about commercial confidentiality. I am aware of our Scottish charitable incorporated organisation in Dundee, of course, and, although it has contracts, I question what difference the order would make in relation to commercial confidentiality. I think that it comes down to the terminology, and I am not knowledgeable enough about how far the order would go. Would it allow people to ask for information in the ALEO, or would it allow people to ask about contracts that the ALEO has? I think that that would make a difference.

**Margaret Mitchell:** Can the witnesses give examples—you can provide them to the committee later if you do not have them today—of cases in which commercial sensitivity has been cited as a reason for not giving information that has been requested in an FOI request? It would be useful to see how much of a problem there is.

Inverclyde Leisure certainly said in its submission that there is a problem. I am looking for more information—some meat on the bones.

**Kieron Vango:** I think that we were thinking about Aulds the bakers. How far would the order go? Would it extend to stuff that we subcontract? I do not know the answer. Of course everything in our ALEO—in our trust—would be accessible through freedom of information, but would commercial contracts be included in that? We sub-lease to a crèche, as well as to the bakers, so would that be included too? I do not know.

**Margaret Mitchell:** I think that you mentioned rental values in your submission.

**Kieron Vango:** Yes. That is to do with our contracts with Aulds, for example.

**Margaret Mitchell:** Why should that information not be in the public domain, once the contract has been won?

**Kieron Vango:** I do not know. I suppose that we could declare information about stuff that we are renting out. I do not know whether Aulds would have an issue with that.

**Margaret Mitchell:** I do not think that it matters whether Aulds has an issue with that. The public have a right to know what their money is spent on, and the rental value is a clear indication of that.

I get the definite impression that Inverclyde Leisure sees its glass as half empty. However, this is probably an opportunity for you to regard the proposed change positively. You can be open and transparent about what you do—and do very well, by all accounts—by releasing more information. It does not have to be all about the potential problems.

**Kieron Vango:** Okay.

**Stewart Stevenson:** Convener, would it be useful to go back to what the order would actually do?

**The Convener:** Please be brief, Mr Stevenson.

**Stewart Stevenson:** I just make the point that column 2 in the schedule makes clear that the order does not cover all activities. It covers only:

“Functions contained in—

sections 90 and 163 of the Local Government (Scotland) Act 1973;

section 14 of the Local Government and Planning (Scotland) Act 1982”—

which will not matter—and

“section 20 of the Local Government in Scotland Act 2003.”

It is perfectly clear that some of the matters about which members have asked fall outside those areas. In other words, it is not about applying the

general rules in the 2002 act on matters such as commercial confidentiality; the order will simply apply to a specific range of functions. That is how it appears to me, but I will need to look more closely at the issue, as other people might have to do.

It would be helpful if, in the spirit of openness, the witnesses said that they would not regard themselves as being constrained by the requirement, under the section 5 order that we are considering, to provide information on the functions that are set out in column 2. If they can say that, I think that we can put the thing to bed.

**The Convener:** If there are no comments on that, I turn to Mr Wilson.

**John Wilson:** I have two brief questions. Mr Vango and Mr Given might not be able to answer this first one, but I am curious. How did Inverclyde Council deal with FOI requests about leisure services in the past? When the transfer took place, was that issue not raised with the new management of the ALEO?

**Craig Given:** I could not possibly comment on that, because I was not present.

**John Wilson:** Maybe that is a question that we can take up with Inverclyde Council. My second question is this: who owns the buildings and equipment that are operated by Inverclyde Leisure?

**Kieron Vango:** The buildings are owned by the council and leased to us, and we purchase the equipment in those buildings, such as fitness equipment—we do that on a five-year or 10-year basis.

**John Wilson:** Ms Smith, is that standard for other local authorities? Are you aware of any local authorities that have transferred the buildings and equipment to the ALEOs and have divested themselves of those buildings?

**Merrill Smith:** From my own experience and my knowledge of other councils, I am not aware of any that have transferred. In most cases, the council retains ownership of the buildings and leases them with a contractual agreement, whether that is a management agreement, a service level agreement or a memorandum of understanding. There are all sorts of different ways of doing it.

We have a service agreement in Dundee, because we have a SCIO. We retained ownership of some of the major pieces of sports equipment, but that was because it made more commercial sense to do so. Normally, however, smaller pieces of equipment are part of the lease agreement to the ALEO.

**The Convener:** I thank all the witnesses for giving up their time today and for their evidence.

09:41

*Meeting suspended.*

09:42

*On resuming—*

**The Convener:** In our second panel of witnesses, I welcome Nicola Sturgeon, Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities, Andrew Gunn, FOI officer at the Scottish Government freedom of information unit, and Christine Reay, solicitor for commercial and business services at the Scottish Government. I invite the cabinet secretary to make an opening statement.

**The Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon):** I am pleased to be here to speak in favour of the motion. This is the first time since the Freedom of Information (Scotland) Act 2002 came into force that coverage of the legislation has been extended beyond public authorities and bodies that are wholly owned by those public authorities. The proposed order will bring recreational, sporting, cultural or social bodies established or created by local authorities within the scope of FOISA where they are partly or fully financed by a local authority. That will help to ensure that the public and others have a right to ask those bodies, which are delivering public services and which receive public funding, for information. They will also have the right to submit requests both under the Freedom of Information (Scotland) Act 2002 and under the Environmental Information (Scotland) Regulations 2004.

A draft order was originally consulted on back in 2010 and, following my announcement in January of the decision to extend coverage, a revised draft order was circulated for further comment to key stakeholders, including local authorities and the relevant trusts. I am grateful to the Scottish Information Commissioner for her continuing input into the process and for her willingness to support those trusts that are being designated by the order in preparing for their responsibilities under FOI legislation and the associated legislation that they will be taking on.

09:45

Many people have argued—indeed, it was a recurring theme as the Freedom of Information (Amendment) (Scotland) Bill progressed through Parliament—that the power that the order exercises has been unused for too long. I hear that, and there is a fair consensus in Parliament

that that is the case. I underline the view that I expressed during the progression of the amending bill and give the assurance today that I see this very much as an initial order. I have not ruled out including other arm's-length bodies within the scope of FOISA in the future. It will be important to monitor the impact of FOISA on the trusts that fall under the provisions of this order and to take that into account when we make decisions about further expansion. We will also want to hear wider stakeholder views in order to inform proposals relating to other bodies, with a view to extending coverage further in the future.

I remind the committee that, as a consequence of changes to the legislation that were introduced by the Freedom of Information (Amendment) (Scotland) Act 2013, ministers are also required to report to the Scottish Parliament every two years on the exercise of the power under section 5 of the 2002 act. In my view, that strengthens the legislation, as it makes ministers more accountable for the use or non-use of section 5. It means that the committee and Parliament more generally will have the ability to scrutinise those decisions in the future.

I think that the order is a good first step in extending the coverage of FOISA, but I am sure that this is not the last time that we will sit here discussing how much wider the freedom of information legislation should go.

**The Convener:** Thank you, cabinet secretary. We have a briefing paper from the Campaign for Freedom of Information in Scotland, which talks of broken promises because there was a belief that the powers would be extended. When Jim Wallace was a minister, he outlined a range of bodies that he expected to be included in 2002. You have said that you see the order as the first part of an extension. Do you believe that it is right to extend the powers incrementally, ensuring that everything works and looking at the impacts that there will be on other bodies?

**Nicola Sturgeon:** The short answer to that question is that, yes, I take that view. As I indicated in my opening remarks, I recognise the consensus that section 5 should have been used before now. I am not responsible for the decisions that Jim Wallace made, or the lack of them, when he was the Deputy First Minister, but today we are setting out a clear direction of travel. It is important that we move forward with a willingness to extend the principles of transparency through extending the coverage of the freedom of information regime. However, we must do so in a way that allows us to assess the impact on organisations, learning lessons as we make decisions about the future. I expect to open consultation on a further order next year, which will look at other arm's-length bodies that are not covered by this order. In the past,

there has been discussion of extending the FOI regime to housing associations and contractors working for local authorities and public agencies, and there is continuing debate about that. However, we need to move forward in a way that allows us to assess the impact, learn lessons and ensure that we are making the right decisions.

**The Convener:** Just a few minutes ago, we heard that Inverclyde Leisure is a bit wary of FOISA because of commercial sensitivities, and we were given a brief outline of what it is afraid of. How do local authorities deal with commercial sensitivities under the 2002 act?

**Nicola Sturgeon:** Under the current freedom of information legislation, there are a range of exemptions that allow public authorities to withhold information if they have a sound, legislation-backed reason for doing so. The legislation also allows people who seek information to ask for reviews and to go through an appeals process.

I did not hear the oral evidence that you received from Inverclyde Leisure, but I read its written submission and I do not accept that its concerns are well founded. A similar organisation in my constituency, Glasgow Life, is wholly owned by Glasgow City Council and is already covered by the freedom of information regime. The order simply brings consistency for such bodies.

A great deal of assistance is available from the Information Commissioner to help bodies such as Inverclyde Leisure who will become subject to freedom of information legislation exercise their responsibilities in a way that emphasises openness and transparency and ensures that the burdens are not disproportionate in the way that they have expressed concerns about. What we are doing is right with regard not only to consistency but to extending the principle of openness and transparency.

**Margaret Mitchell:** Good morning, cabinet secretary. Why has the Government prioritised ALEOs with responsibility for recreational, sporting, cultural and social facilities?

**Nicola Sturgeon:** That comes back to my previous response to the convener. There is an inconsistency in the current situation—Glasgow Life, for example, is subject to freedom of information legislation while other bodies are not—and the order brings consistency to recreational, cultural and social arm's-length bodies. We had previously consulted on including those bodies, which is why we have decided to start with them. However, as I said in my opening remarks, that does not mean that we are going to stop there. We have started on a direction of travel that we will want to take step by step.

**Margaret Mitchell:** Do you have any indication of the number of ALEOs that will be covered by

the SSI and how many still need to be or could be covered?

**Nicola Sturgeon:** This is a class designation and, as you will have seen from the terms of the order, we have not listed bodies in it. There are two reasons for that: first, freedom of information legislation is very much based on the function of organisations; and, secondly, if we list organisations in an order instead of having a class designation, the order will quickly go out of date as new organisations are set up and we will need another order to add them to the list. We expect the order to cover 23 organisations. Ultimately, if any of those bodies thinks that it should not be covered, that would be a matter for the Information Commissioner to reach a view on.

**Margaret Mitchell:** Do you have a rough idea of how many organisations we would be talking about if other classes were to be included?

**Nicola Sturgeon:** Are you talking about organisations that are not included in the order?

**Margaret Mitchell:** I am talking about those organisations that are not sporting or cultural that would be covered if the order were extended.

**Nicola Sturgeon:** I do not have a figure for that because, as you will appreciate, it is, apart from anything else, a moving situation as bodies get set up by local authorities. I do not have a figure for the number of organisations that could be covered by freedom of information; that would depend on the particular classes to which you decided to extend coverage and the order in which that happened.

**Margaret Mitchell:** Will the new legislation cover only new ALEOs or will it be retrospective? I suppose that I am talking about contractual arrangements.

**Nicola Sturgeon:** I will try to answer that question in two parts. First, the legislation is retrospective with regard to the information that is held; in other words, it covers not just information from the date on which the order was passed. Once these bodies fall within the scope of the legislation, information that they hold historically can be requested under freedom of information.

I have said that, as of now, we consider that 23 organisations will be covered by this order. However, any new organisation that is set up by a local authority or combination of local authorities after the order comes into force and which fits within the class designation will also be covered, even if it did not exist when the order was passed. That goes back to my point about why we have not listed organisations in the order but have instead designated a class of organisations to be covered. New organisations that fall within this particular class will be covered.

**Margaret Mitchell:** I am trying to get at the issue of information in contracts or perhaps subcontracts that is currently not available or which is not given voluntarily but which might now be subject to the terms of the SSI and should be released.

**Nicola Sturgeon:** Those organisations will become subject to freedom of information legislation, which contains a number of grounds on which information can be withheld. The organisation in question would have to argue that one of those grounds applied, but the point is that the organisations will be subject to freedom of information legislation in the same way that the Scottish Government and local authorities are.

**Margaret Mitchell:** So your short answer is that you do not foresee any real problem with existing contracts under this SSI.

**Nicola Sturgeon:** I am not quite sure that I understand what you mean.

**Margaret Mitchell:** Under the terms of a contract, for example, it might have been agreed that certain information would not be released. However, under this SSI, it might be found to be pertinent to release such information.

**Nicola Sturgeon:** All information that the organisations hold will be covered by the scope of FOI, but whether it is releasable will depend on whether it falls within an exemption in the FOI legislation. All the information that the organisations hold—not just from the date when the order comes into force but historically—will be covered by the scope of the FOI legislation.

**Margaret Mitchell:** I would appreciate a little more information on exemptions. What exactly are we talking about? What are the broad headings?

**Nicola Sturgeon:** The exemptions are laid down in the 2002 act, which I do not have in front of me—*[Interruption]*—we now have it in front of us. The classes of exemption include things that might be commercially confidential.

I will read the list of exempt information from part 2 of the act. It includes information that is otherwise accessible, prohibitions on disclosure and information that is intended for future publication. For example, if the Government got an FOI request for statistics that were due to be published routinely six weeks from now, we could exempt the information on the basis that it was to be published later.

Other examples of exemptions are for prejudice to the effective conduct of public affairs, national security and defence, commercial interests, confidentiality, court records and personal information. The whole list is at part 2 of the act.

**Margaret Mitchell:** That is helpful.

In your opening statement, you said that the order is positive and will make the situation more transparent. I certainly agree with that, especially given the use of the term “commercial sensitivity”. I do not know whether you heard the earlier evidence on that issue, on which I have a bit of an axe to grind. Local authorities or other public bodies often withhold information by saying that things are commercially sensitive when they blatantly are not. Members of the public often make the same complaint and will look at the order as a way to get information that might previously have been withheld. Does that have any implications?

**Nicola Sturgeon:** We are in danger of fundamentally misunderstanding what the order will do. It will not change the classes of information that are covered by freedom of information legislation or any of the potential exemptions. It will extend the range of bodies that are subject to freedom of information legislation. It is vital to be clear on that.

The classes of information that are covered and the potential exemptions are laid down in the primary legislation. As you are aware, when any individual or organisation requests information from a public authority, if the answer is that the information will not be given because it is exempted on whatever ground, a review of that decision could be requested, an appeal could be made to the Scottish Information Commissioner and then people could go to court.

The order will not change the fundamental process for requesting information or the classes of information that are covered. It will extend the 2002 act to a broader range of organisations.

**Margaret Mitchell:** I understand that. Would you be in favour of promoting or looking at the inclusion of a freedom of information clause in ALEO contracts, so that we would not have to go down the more expensive route of appealing? Such a clause would iron things out. There is no doubt that disputes occur and that a lot of people are unhappy about whether information is commercially sensitive. There is an opportunity to look at freedom of information clauses when contracts are negotiated.

**Nicola Sturgeon:** I am open to looking at anything that promotes transparency, but we are talking about the law and the Freedom of Information (Amendment) (Scotland) Act 2013 just went through Parliament.

I am open to further suggestions about how we can promote transparency. Housing associations are not currently covered by freedom of information legislation, but the Scottish social housing charter is intended to promote greater transparency in the housing sector. We should

also look at how to promote greater transparency in procurement.

I am absolutely open to anything that promotes transparency, but we must be clear that we are talking today about the legal framework and in particular the primary legislation that governs the freedom of information environment.

**Margaret Mitchell:** As a former solicitor, you will know that lawyers have various interpretations of the law. I was simply trying to suggest something that would perhaps make things absolutely clear and concise.

10:00

**Nicola Sturgeon:** I am not arguing with that, and I am trying to be sympathetic. I am just making the point that, ultimately, whether something is covered by freedom of information is, in the first instance, down to the interpretation of the person who is asked for the information, then the Information Commissioner and, ultimately, the courts.

**Anne McTaggart:** What additional resources, if any, will the Scottish Government make available to support some of the voluntary sector organisations in gearing up to comply with the FOI legislation? I know that we have heard evidence from only one organisation, but it has not started work or allocated any resources to the area so far.

**Nicola Sturgeon:** The order does not apply *per se* to the voluntary sector although, obviously, some of the bodies that might be covered consider themselves to be third sector organisations. On assisting organisations to be ready to comply with freedom of information, the Information Commissioner has said that she will do what she can and what is necessary to assist organisations with being ready to comply. Local authorities, which already comply with the legislation, are well placed to give appropriate assistance to organisations that will come under the ambit of the legislation for the first time.

To return to a point that I made earlier, it is incumbent on those organisations to organise themselves. We are giving plenty of lead-in time before the commencement of the changes. It is incumbent on the organisations to do what requires to be done to fulfil the requirements of the law. I repeat the point that I made earlier that some organisations that are similar to the likes of Inverclyde Leisure are already subject to freedom of information and have been for some considerable time.

**Stewart Stevenson:** I want to explore a little further the scope of the measure as it applies to ALEOs. The schedule to the order, at paragraph (b) in column 1, talks about a person

“whose functions on behalf of any of those authorities include”

a list of things. Column 2 refers to tourism, public libraries, museums and art galleries and the provision of recreational, sporting, cultural and social facilities. It also refers to section 20 of the Local Government in Scotland Act 2003, which is simply about how directions may be given. So there is a specific list of activities that form part of the activities of ALEOs that are covered by the order.

I want to identify an example of something that an ALEO might do and then test whether you think that it would be included. In these difficult times, an ALEO might decide, given the kind of customers that it has and their needs, to start to offer advice on debt. Having looked at the relevant acts, it seems to me that that would not be covered by the description of functions in column 2 in the schedule. Is it the case that such activity by an ALEO would not be covered by the order and therefore that not all information that an ALEO might hold will be covered?

**Nicola Sturgeon:** I apologise if I have not expressly made it clear what I thought would have been implicitly understood, which is that the information that is covered in terms of ALEOs is described in the order. On the example that you describe, I would want to get legal minds to consider whether, in that particular circumstance, that bit of an ALEO's work would be covered by freedom of information. It might not be, because there are ALEOs that do economic development or regeneration work that are not covered by the order, although we might choose to consult on making such organisations subject to a future order. I do not want to give an absolutely definitive yes or no answer to that question without having a chance to consider the issue. However, the schedule to the order is clear on which ALEOs are covered and which functions of those ALEOs are covered.

**Stewart Stevenson:** I was not pursuing the issue of debt advice; I was merely saying that there will be activities that ALEOs undertake that are not covered.

**Nicola Sturgeon:** I accept that.

**Stewart Stevenson:** It appeared from some of the earlier discussion that it was thought that all the relevant ALEOs' activities would be covered.

**Nicola Sturgeon:** I was assuming that we understood that we were talking about the functions that are laid down in the schedule to the order. To ensure that I do not inadvertently give another impression, I point out that it is the functions of the ALEOs that are laid down in the schedule that will be covered. There may well be other functions that will not be covered, and in



future work we might want to broaden the functions that are covered.

**Stewart Stevenson:** That is fine. It is sufficient for my purpose to get that on the record.

I have a further brief point. Because the order could not be made under section 4 of the Freedom of Information (Scotland) Act 2002, as the ALEOs are not Government bodies, it has had to be made under section 5. Therefore, those bodies have not been added to the list in schedule 1 to the 2002 act. As a result, section 44 of the Climate Change (Scotland) Act 2009, “Duties of public bodies relating to climate change”, which refers specifically to schedule 1 to the 2002 act, will not include in law the bodies in question.

Would you be prepared to consider whether there are ways in which, when we extend the freedom of information provisions to bodies that are covered by section 5—as opposed to section 4—of the 2002 act, we can apply to them the climate change duties that otherwise apply to public bodies? In looking at the legislation, I do not see any order-making powers that make that easy.

**Nicola Sturgeon:** Without going too deeply into the technicalities of the issue, I am not of the view that the position that you have just outlined—that the bodies in question would not be covered by obligations under the climate change legislation—is strictly accurate. However, I will be happy to respond in writing on that point, either directly to you or to the convener.

**Stewart Stevenson:** The 2009 act says:

“a ‘public body’ means a Scottish public authority within the meaning of section 3(1)(a) of the Freedom of Information (Scotland) Act 2002”.

**The Convener:** We will seek clarification in writing.

**Nicola Sturgeon:** I will be happy to provide some clarification on that point, which I do not think affects the passage of the order.

I am happy to address your broader point. In using section 5 to extend the coverage of the 2002 act, we want to extend its coverage in all the ways in which we want that to be done.

**Stewart Stevenson:** That is helpful.

**Richard Baker:** My question builds on the question that the convener asked. The proposed change is significant but narrow in terms of the number of organisations that will be affected. I think that that is why the question has come up about why ALEOs are the first organisations to be covered by the extension of the FOI legislation.

You mentioned the consultation paper that you expect to publish next year. Do you think that it will cover a significantly broader range of

organisations that may come under the ambit of the legislation?

**Nicola Sturgeon:** It will. I will not list the organisations that will be covered now, because that would be to get the process round the wrong way, but, by definition, a broader range of organisations will be covered than the ones that we are talking about today. The consultation gives us an opportunity to be quite a bit broader than we are being in the order.

I have explained why we started with these particular ALEOs. Of course, it is open to anyone to say that the order does not go far enough fast enough. I simply repeat the point that I made earlier: we are the first Government that has extended the coverage of the act through the use of section 5. I apologise in advance if I am misquoting the Scottish Information Commissioner—I do not think that I am—but she described what the order proposes as a great start. I am happy to concur with that interpretation. I think that it is a good start, but I recognise that there is further to go. I give a commitment that we will look to bring forward a further consultation next year that will further widen the scope of the legislation.

**John Wilson:** Good morning, cabinet secretary. In our earlier evidence session with the chief executive of Inverclyde Leisure, we heard about his ambition to extend the services that his organisation provides by, for example, also providing leisure services in Aberdeen. What would be the situation in respect of FOI if such ALEOs started commercial offshoots? Would those commercial offshoots be subject to FOI legislation?

**Nicola Sturgeon:** They would be if they were wholly owned by the body in question and if the functions—to some extent this goes back to my discussion with Mr Stevenson—are captured by the schedule to the order that we are discussing. Obviously, a definitive answer cannot always be given to a hypothetical question, so I would need a concrete example of what a particular body was doing to be absolutely certain whether, in my view, it would be covered by the provisions that we are considering today.

**John Wilson:** For example, if an ALEO formed a partnership with one of the major private leisure providers, would the ALEO part of that partnership be subject to FOI? I am just trying to find out whether there are ways in which some ALEOs could find loopholes to exempt themselves from the FOI provisions.

**Nicola Sturgeon:** First, I would hope that bodies would not do that. If they started to do so, that would be a material factor in our decisions about where we go next with FOI. I do not think

that bodies should try to organise themselves in a way that gets them out of their obligations under freedom of information.

In the example that you have given—again, I am responding to a hypothetical example, so I caveat my answer with that straight away—we could not bring within the ambit of freedom of information legislation a body such as a private company that would not otherwise be subject to the FOI legislation. The functions of Inverclyde Leisure would still be covered, but coverage would not be extended to a private company. Obviously, we will be very interested in any body that tries to organise itself in a way that is designed to get it out of the freedom of information regime. We would look to address that in future orders if we considered that to be necessary, but I hope that that will not happen.

**The Convener:** Thank you, cabinet secretary. We have no more questions, so we now move on to agenda item 4, which is formal consideration of motion S4M-07539, to approve the SSI on which we have just taken oral evidence.

*Motion moved,*

That the Local Government and Regeneration Committee recommends that the Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2013 [draft] be approved.—[*Nicola Sturgeon.*]

*Motion agreed to.*

**The Convener:** Thank you very much, cabinet secretary.

I suspend the meeting until 10.20 to allow a change of witnesses.

10:13

*Meeting suspended.*

10:20

*On resuming—*

## **Children and Young People (Scotland) Bill and Public Bodies (Joint Working) (Scotland) Bill: Stage 1**

**The Convener:** Agenda item 5 is an oral evidence-taking session on two bills that are currently undergoing parliamentary consideration: the Public Bodies (Joint Working) (Scotland) Bill and the Children and Young People (Scotland) Bill. The bills are being considered by the Health and Sport Committee and the Education and Culture Committee, respectively.

Although this committee is not a formal secondary committee for the consideration of the bills, each of the bills might have a significant impact on the functions of local government in Scotland in relation to the delivery of adult and children's services. In keeping with the Presiding Officer's agenda for more focused and joined-up working by committees, we have decided to hold this one-off evidence-taking session on both bills with some key witnesses and to report our findings to the lead committees.

The aim of the session is to ensure that the bills are scrutinised from a local government perspective as well as to deliver joined-up scrutiny of cross-cutting legislation by the committees of the Parliament. This session will also inform the committee's on-going work on the implementation of the Christie commission principles across the public sector in Scotland.

The witnesses have made written submissions, which members have before them. We have also received a further 13 written submissions from other organisations, and we have had regard to the written submissions that were given to the lead committees.

I welcome Jim Carle, the child health commissioner with NHS Ayrshire and Arran; Dr Anne Mullin, from the general practitioners at the deep end group; Eddie Fraser, the head of community care in East Ayrshire Council; Carol Kirk, the corporate director for education and skills at North Ayrshire Council; and Mary Taylor, the chief executive of the Scottish Federation of Housing Associations and a member of the housing co-ordinating group.

We are rather short of time, but do any of our witnesses wish to make a short statement?

**Mary Taylor (Scottish Federation of Housing Associations and Member of Housing Co-ordinating Group):** I would welcome the opportunity to do so. I will try to be brief.

It is clear that housing seems to be absent from the debate about the integration of health and social care, so we are delighted to have an opportunity to speak to the committee today. The housing sector—on whose behalf I am speaking; I am not here solely on behalf of the SFHA—supports the broad aims of joined-up working and improved outcomes in relation to health and wellbeing. We see ourselves as already making significant contributions to outcomes around healthy living and independent living, and positive outcomes for individuals and communities.

We support the broad thrust of what is happening, but the focus on the institutional and structural aspects of integration without reference to housing creates a risk that, in our view, this committee could do something to address. For example, in the papers for today's meeting, there is virtually no mention of housing, other than in the paper from the housing co-ordinating group. That might be what you would expect, but I am here to make the case for revising the proposals as they stand in order to allow better strategic engagement with the housing sector, from strategic commissioning down to locality planning at whatever scale that turns out to be.

Unless the housing sector, which has experience of strategic planning and has the practical capacity and appetite to make a contribution on the ground, is involved, there is a risk that there will be poorer-quality and more expensive outcomes than might have been achieved with housing involvement at an earlier stage. That is not what we want for ourselves or for our older generations and relatives.

**The Convener:** That was an extremely useful contribution, so I will begin by following it up.

In the past, there were moves to create homes for life. However, we have seen various welfare reform changes, with more to come, which kind of impede that ambition—I am thinking of the bedroom tax and so on. Of course, this Parliament does not have powers to address those issues at the moment, which is probably an impediment to what you would like to see. Do you wish to comment on that?

**Mary Taylor:** I am not going to elaborate on the bedroom tax, in the interests of time. I could go on at great length, but all that I would say is that it does not completely undermine the sector's capacity, although it certainly erodes it and we are working to address that.

There are all sorts of issues, particularly in the engagement of the housing sector in strategic

planning through the local housing strategy and housing contribution statements, and, as I said earlier, it would be a risk to the objectives and goals of the integration exercise to miss the opportunity to involve housing in those things.

**The Convener:** Would it be fair to say that those changes do away with the concept of homes for life?

**Mary Taylor:** Not necessarily. There are a number of people affected by the bedroom tax, but there are also a number of people who are not affected by it, and there is no requirement on anybody to move as such. The English regime for housing policy is quite different from the Scottish one, and Alex Neil, when he was Minister for Housing and Communities, made it quite clear that there was no suggestion that the homes for life notion was going to be done away with.

I point out that, in speaking for the housing sector, I am speaking not only for social housing providers. Our housing co-ordinating group involves people who work right across the spectrum, including care and repair projects that help elderly owner-occupiers to undertake repairs to their homes and to engage the services that they need to keep them living independently in their homes. This is not just about social housing.

**The Convener:** Thank you. There are obviously high expectations for both bills and for what services can be expected to achieve. People are obviously looking for improvements once the bills come into place. When do you think that the benefits will start to be demonstrated?

**Jim Carle (NHS Ayrshire and Arran):** I believe that the benefits are already becoming manifest and have been for some time. Children's services, in the broadest sense, have been working towards a similar integration agenda, understanding that by working together we can produce better outcomes for children and young people.

The challenge for us is measuring the impact of, for example, the early years collaborative over a longer period of time. Public organisations are quite used to looking for short-term gains over one, two or three years, but we are not used to looking at someone who will be born today and the benefits for them or the reduction in their uptake of services in later life. Children's services have been working hard on that agenda, and we hope that the two new bills will go some way to supporting that new process.

**Dr Anne Mullin (GPs at the Deep End):** From a general practice perspective, working in deprived areas we have not seen benefits yet.

We are looking from a slightly different standpoint from other services that are represented on the panel. The deep end group

thinks that there is potential in the legislation, and we would like to explore some of that potential with the Scottish Government. We have outlined specific proposals in areas where we feel we could and should make a difference, but that needs to be supported with all the things that we have suggested in our proposals, such as the additional time for consultations that we need when working with very comorbid people in deprived areas; support for serial encounters in general practice, which are key to people's holistic and long-term care; attached staff who are specifically named social workers, addiction workers and health visitors; and a nationally enhanced service for vulnerable children. The list goes on.

We have outlined those proposals, and members can access those documents. If the proposals are incorporated and recognised, we feel that general practice can play its part with our other partners in primary care.

**The Convener:** Having visited some doctors' surgeries during the recess—everybody thinks that we take long holidays, but it is actually more work—I am aware of the need for increased consultation times. Surgeries that I visited made a plea for that, but I believe that your contract is governed by a deal with the UK Government. Is that correct?

10:30

**Dr Mullin:** There is perhaps some scope for that now. I am not involved in contract negotiations, which are for the British Medical Association, but there is some appetite to revisit the contract and consider what could be more appropriate for the national health service up here. The primary care services in Scotland and England bear no resemblance to each other any more. We feel that primary care is far more protected up here and we want to develop the role of general practice, particularly in the equalities agenda. We feel that it is very important for us to get involved.

**The Convener:** You would say that it would be best for the BMA to negotiate with the Scottish Government rather than the Westminster Government over many of these things.

**Dr Mullin:** That is my opinion, yes.

**Carol Kirk (North Ayrshire Council):** I concur with Jim Carle that we are already seeing a lot of the benefits. I chair our integrated children's services partnership, which has representatives from the police, health, social services, housing and the voluntary sector. Over the years—particularly the past two years—we have seen a significant coming together in specific actions in relation to children. Before that, we would come together much more around a project.

The situation has now changed and we are looking at significantly different ways of working together. We are considering the co-location of health visitors within our early years establishments and we have established a multi-agency domestic abuse team, which is having a major impact on the number of children who are referred to the children's panel. There is a lot of good joined-up working on specific issues such as those, and it is beginning to bear fruit.

Within the North Ayrshire community planning partnership, we are considering putting our children's services into the health and social care partnership along with adult services. With my other hat on, I am the director of education and skills, and it does not cause me anxiety that health is no longer going to be part of the council as such. I think that the networks and the work on the ground are solid enough that it does not matter what headings we have on the management structures. If there is working together in an integrated and effective way, it matters less where the budget sits and where the managers and the reporting structures are.

Our partnership reports directly to the CPP, which takes a very active role—as does the chief officers group—in monitoring the outcomes for children. As Jim Carle said, that proves a challenge, as some of the short-term measures are not easy to define. In some of the work that we are doing, particularly with our youngest children, we are seeking long-term societal change and there is a challenge in that. I am happy to see the focus on integrated children's services in the bill, but we need to be careful that we are not creating additional planning structures instead of refining the planning structures that we have both at the corporate level and at the level of the individual child.

**The Convener:** Thank you. It is refreshing to hear that a CPP seems to be working well in that regard. Getting it right for every child has played a part. Can you outline the importance of what that programme has achieved? Has there been any resistance within the CPP to a move to preventative spend?

**Carol Kirk:** GIRFEC has been a catalyst in changing a lot of the thinking. We have established local resourcing groups, which have been in place for four or five years. That has meant that multi-agency teams can provide a very quick response for children who need additional support but who are not at the level at which the reporter is approached and compulsory measures of care are sought. That has served us well both in keeping children out of compulsory care and in preventing situations whereby they are either out of school or out of the local authority. We have seen significant change around that.

A significant piece of work around GIRFEC has been carried out across the three Ayrshire councils. The information-sharing project, which is called AYRshare, started in South Ayrshire and has been rolled out to North Ayrshire. In essence, the three integrated children's services planning groups came together to take things forward. We think that the approach will help all the agencies that are involved to get a handle on issues much more quickly and to be able to share information at that level.

GIRFEC has significant strengths and I think that people are signed up to it. There are issues to do with the planning around GIRFEC. We still have additional support needs planning, so there is sometimes an issue for us and for people in health about which plan to have for a child. There is still a bit of a cluttered landscape, but that will probably change over time.

I have not detected a reluctance in relation to preventative spend. However, there is significant difficulty in disengaging in relation to costs that are incurred for children who require a residential placement or intensive support, in order to invest in support further down in the early years.

Our joint chief officers and the CPP have made significant investment. We have put more than £1 million into preventative spend for young children, which meant that hard decisions had to be made elsewhere. There is not an unwillingness to spend in that way; it is just that there are groups of young people at the upper end of the spectrum who need continuing support, and it is difficult to disengage the money that is being spent on them so that it can be diverted elsewhere.

The message is beginning to get out that preventative spend is having an impact. It is having an impact on the number of exclusions from school and the number of young people whom we place outwith the authority, and there are fewer referrals to the reporter. There is hard evidence that spend is effecting change.

**Mary Taylor:** The convener asked when the benefits will materialise. As other people said, to some extent the benefits are already materialising.

That is true even in relation to housing planning and the development of new services that are preventive in essence and that aim to be low cost. That can happen where there are good relationships such as my colleagues on the panel have described. However, for every area where there are good working relationships there is an area—if not many areas—where working relationships are not necessarily good.

In particular, I cite the experience of the reshaping care change fund. Change fund plans have often been developed without reference to housing and without recognition that housing can

achieve a huge amount upstream, at costs that are relatively low in the context of health budgets. Until relatively recently, people had not even got to the point at which they had the opportunity to sign off change fund plans—and that has happened only after a lot of pushing.

That is part of the argument for stronger recognition of the role that housing can play and for not leaving things to chance and the accident of good relationships.

**Eddie Fraser (East Ayrshire Council):** As members might have anticipated, I concur with most of what other witnesses have said. I emphasise the need for continued partnership working with housing in the new health and social care partnerships. We all know that there will be demographic change and that the number of older people will grow. Older people need appropriate housing so that they can continue to live in the community.

In my area, the focus of the council house building programme has been on houses for older people and how we can build houses that can support adults who have complex needs—that is the other area in which close partnership working with housing is needed.

We absolutely support de-institutionalisation and people living in their communities, but the fact is that we have individual support packages costing £200,000 dotted all over a town instead of some way of delivering them effectively through a type of core and cluster model. The issue is very much to do with the link between care and housing, and we in East Ayrshire have been able to deliver some successes in that respect.

I also agree that through housing we can get some early wins not just for organisations but for individuals. If by working through care and repair we can get simple things such as handrails installed without the need for elaborate assessment processes, people get what they need quickly and it proves cost effective. Indeed, one of our major successes has been the ability to put money into such areas through the change fund.

We have also been able to give money to the voluntary sector in order to give people practical support. Older people get depressed if they have to sit and look at an overgrown garden, and providing money to certain voluntary organisations that get young people into work and to do Scottish vocational qualifications while, at the same time, giving older people some practical support has proved to be a big success for us.

As for other early wins, co-location of certain services has been a really positive move. We have a number of good examples where such co-location has helped to increase communication. For example, the co-location of all our mental

health and learning disability services has given us immediate wins.

We have also been able to develop our intermediate care and enablement services to support early discharge from hospital and prevent admissions. Indeed, our statistics show how successful we have been in consistently improving the delayed discharge situation and, most important, in helping older people stay at home.

One of the positives of the proposed changes is that everyone will be clearer about how to access services. It will certainly help if, instead of general practitioners making referrals to a whole range of different people, we have clarity about who they can refer to. Having quicker decision making instead of decision making by committee will also make things clearer for us.

We also have to look at locality working, because we cannot have separate approaches to that issue in the various bills that are around at the moment. We have single communities, and we have to consult those communities together; after all, the priorities for those communities and how they want some of the national priorities to be implemented should come from them.

In that respect, it is essential that we have real engagement with local communities and that our local GPs are involved in that process. With the development of community health partnerships, we have lost the engagement of GPs in local healthcare co-operatives. We need GPs to come back into the process in a meaningful way that allows them to see the changes that are being made and to influence what is going on in communities.

The bills contain many opportunities, but it only makes sense to do this together on the front line at community level.

**Anne McTaggart:** Do our health colleagues foresee any practical issues for local authorities and health boards in trying to implement both bills together?

**Jim Carle:** Yes, there are a number of issues. Aligning both processes will be problematic and what could be regarded as strategic planning systems will give us issues. However, we are not going to run away from them; instead, we are going to grab and make the best of them.

There will be problems in ensuring that the two processes communicate well with each other. In planning for the implementation of the Children and Young People (Scotland) Bill, we need to be conscious of actions that are being taken on the other side. The recognition of the need to work better together did not come as early in the process as we would have wished, but it is now there and we are starting to build from that basis.

However, the fact that we are dealing with two separate processes that come from slightly different perspectives has been problematic, and it would have been much more helpful had they been brought together much earlier in the process.

An awful lot more could have been learned from the experience of children and young people's services under GIRFEC and the processes that we have had to go through. Carol Kirk mentioned a number of gains. Under GIRFEC, we have had to look at culture, systems and practice. What we have done well is to change our culture and move away from our silo working practices towards having, on occasion, large meetings at which we work through all of our issues, recognise that we have more than one audience for anything that we are trying to deal with and move forward from that. However, we see the potential hurdles and are working towards dealing with them.

10:45

**Dr Mullin:** We could have a long discussion on where things could again go very badly wrong in Glasgow, as happened last time, so it is important to get it right this time. Purely from a GP perspective, one of the biggest lessons is on the need to engage directly with general practice. There are different models in Glasgow's community health partnerships but, in Glasgow south, where I am from, we have a large established GP committee that engages with senior management to discuss policy and to consider local initiatives. That committee has minuted meetings, we report back to local colleagues and we have set up learning events and so on, so the situation is progressing. We feel that that should be built on, because it is a good way of implementing stuff that comes to us that sometimes seems very hierarchical and full of bureaucratic speech.

For example, we just want to know whether, if a GP identifies that someone has an unmet need, there is actually a service that the patient can be put into. At the moment, there is a mismatch. In our anticipatory care planning, we go out and visit housebound elderly people, who were traditionally chopped out of the QOF, or quality and outcomes framework. We now identify a lot of unmet need, but we do not have the resources to match the need. The discussion needs to be linked into the views of those experienced professionals who can inform the process about what needs to happen in parallel as the work progresses. We realise that that is not quick work—it is slow work—but it has to be a two-way thing.

**Carol Kirk:** There have been particular issues for health colleagues, who have some very complex arrangements. For example, I know that health representatives on our group often have

complex reporting arrangements that they need to go through. The two chief officers in the CPP have managed to cut through some of that, but a considerable amount of work is required. Therefore, there is potential to simplify a lot of what we do. We need to learn from the work on integrated children's services in taking forward integration of health and social care, but we also need to learn from the work that has been done in adult services on how we create the momentum to make some of the changes. Perhaps a bit of joined-up learning still has to happen on that.

**The Convener:** Ms Taylor, do you want to comment?

**Mary Taylor:** We did not comment on the Children and Young People (Scotland) Bill at all. All that I would say is that, in the consultation on the integration of health and social care, children's services and housing services were lumped together. Given that, in this committee, a focus on children's services tends to exclude a focus on housing services, my only plea is that, in the absence of housing provisions in the Public Bodies (Joint Working) (Scotland) Bill, the committee should still pay attention to the housing dimension of the argument.

**The Convener:** I think that you have got that message across, Ms Taylor.

**Eddie Fraser:** We need to be careful that we do not lose anything in the changes. Community health partnerships currently have a responsibility for people from cradle to grave—for children, adults and older people. If we move to health and social care partnership committees that have a responsibility only for adults and older people, we need to be careful that children's services are not left sitting without an easy strategic voice in community planning partners such as councils and health boards. In taking the agenda forward together and planning across both bills, we need to ensure that the change is for betterment and that there is no loss of strategic planning.

**The Convener:** Does Anne McTaggart want to respond to any of those comments?

**Anne McTaggart:** No, that is fine. Thank you.

**Margaret Mitchell:** Dr Mullin mentioned that GPs are doing good things but they sometimes run out of resources. One way of addressing that—I put this point to all the panel—would be to ensure that positive outcomes are assessed and logged. Particularly for local authorities, will the new requirements be integrated into benchmarking? How do you assess the outcomes—both positive and negative, as you can learn from the negatives, too—and then do things differently? Perhaps we can go round the panel and ask people about that.

We have heard positive things this morning about how people are sharing and integrating services, which is welcome news. Equally, we have heard good things from CPPs in the past that have not then materialised in local communities. It would be helpful to have a little more detail on how you will pin this down.

**Eddie Fraser:** We can evidence that through numbers. Sometimes, that is about the number of hospital admissions for people over 75. We can also evidence it through measures such as the number and proportion of our elderly population who stay at home. It is much harder to look at less tangible issues such as wellbeing in communities and longitudinal things. If we do preventative spend, we need to do it so that people do not need certain health and social care services in 20 years' time. That applies to everything from the 50-year-old male with an alcohol problem to unborn children. We must look at how we do that, but it is sometimes difficult to do and it will be longitudinal.

We can use indicators. One issue is the extent to which we put together anticipatory care plans. I accept that, unless we follow those up, we have gone through a process without improving someone's life but, if we can put such plans in place, we can show that we have improved someone's life. We currently have indicators that show what the situation is, but it is much harder to capture the positive and tangible things that we will see as we take the approach forward.

**Mary Taylor:** First, some of our colleagues in the housing co-ordinating group are actively working with the outcomes group on the definition of the outcomes and on the targets and indicators that go with all of that. Our general view is that wellbeing is not sufficiently addressed and that there is still too much focus on the costs and impacts of existing services rather than on the services that there might be in future, but I do not want to rehearse that in greater detail now.

Secondly, some members of the SFHA have undertaken social return on investment studies into the impact of the benefit of services and those have shown the value of the services concerned. I can send you details of a project done by Link Housing Association, which showed that, for every pound that it invested in an advice and information service, it got £27 of value back. A study by Hanover (Scotland) Housing Association, Bield Housing Association and Trust Housing Association looks at the value of adaptations for older people. I can send you details of those studies.

**The Convener:** I think that we have seen them before, but we would be happy to see them again.

**Carol Kirk:** An issue with benchmarking is that it tends to be done against individual services and

individual parts of the service. For example, it is easy for me to benchmark in education and we are benchmarked to the hilt across other services. Schools benchmark against other schools and benchmarking is embedded in the system.

We are also good at benchmarking against children at the acute end, if you like. We are good at benchmarking around looked-after children and children who come into the child protection world. Benchmarking around children when there are issues of wellbeing or neglect is quite difficult and we tend to rely on input measures—on what we are doing to address the issue—as there is a conceptual difficulty in benchmarking the impact that we have. However, we have done quite a lot of work to try to identify indicators and we think that we are getting there by looking at the stretch aims of the early years collaborative. We are working back to establish how we get there and which measures tell us that we are getting there.

We have taken forward an investment in the Solihull approach to parenting jointly with East Ayrshire Council, South Ayrshire Council and NHS Ayrshire and Arran. We can measure how many people are using the approach and what impact they feel that it is having on their clients or the families that they deal with, but it is difficult to develop hard measures of what it is saving us and what difference it makes to the wellbeing of children. A lot of work is going on in that area, but it is still in its infancy.

**Margaret Mitchell:** Previously, you gave us a good example of something tangible when you referred to the number of exclusions from school going down, but I take the point that it is not always possible to give such examples.

**Dr Mullin:** We could look at the epidemiology of the statistics that are being collected on issues such as unscheduled admissions to hospitals and the number of days that elderly people spend in hospital before they get moved to a nursing bed. I agree that some of the more qualitative outcomes take longer to develop, because we often need to involve the patient or client in the research agenda, and that work requires commitment.

There are a lot of short-term measure outcomes, but there are not a lot of long-term measure outcomes. A lot of our evidence on early interventions comes from the Olds study, which is on-going. We have nothing similar to that here, but we were prepared to look 20 years down the line at what happened earlier, and how we prevented something from happening. Social return on investment was mentioned. Action for Children published an interesting report about a family intervention project in Northampton and the money that was saved if it intervened early on.

There are ways of pulling together research strands into an integrated proposal. The GPs at the deep end group is working on that. We are very keen to do that research, but it would need to be resourced to give us the staff and the ability. At the moment, there is very little evidence to show for all the work that is going on.

**Jim Carle:** The question is excellent and quite difficult to answer for a number of reasons, but I agree with what my colleagues have said.

GIRFEC gives us the model for change and a common language so that we can communicate with one another. However, we need to develop a number of areas in a much more integrated way. We need to develop better systems for looking at contribution and developing the contribution analysis that looks at all the different systems that contribute to the wellbeing of a child, at how we measure or quantify the benefits that those systems can bring together and the impact that they have on the child.

We need to move away from looking at children in the sense of talking about what we do with a five-year-old, for example, and pick up on the life-course approach. What do we do when we are preparing young people for parenthood? What do we do to help new parents to develop? How can the issues that were identified during the early years be carried forward into primary and secondary school? How do we measure that across the life course of the child? There needs to be some sort of longitudinal analysis of the benefits of the different contributions that are made across the different systems.

One key benefit of joint working is that we all come to the table with a number of different skills. A public health approach to the issues would be extremely beneficial and helpful. As a science, public health has the skills to enable us to develop a proper contribution analysis. We need to ensure that, once we have established an agreed way forward, we stick to it over a long enough period of time to see the benefits coming from the process in which we engage just now. For example, the early years framework is helpful and positive. It gives us a good focus on prevention and the early identification of issues and it gives us the opportunity to engage positively with parents.

One of the key things that has been missing from our discussion so far is the contribution that communities can make to the process. How many of the answers to the questions that the professionals are asking lie within communities? They can inform professional practice.

The combination of approaches from the different disciplines and sciences that are involved will help to take us forward. However, we do not yet have systems that can measure the total



contribution to an individual child over their life course, and that is very much what we want to have a look at and start to develop.

**Margaret Mitchell:** Finally, I want to ask about the implications of the provision in the Children and Young People (Scotland) Bill that every child should have a named person. Do the witnesses have concerns about that? Is it necessary? Sadly, some children have chaotic lifestyles, so many different public bodies might have to share information. It would be helpful if you could give us your views on that.

**Jim Carle:** In Ayrshire and Arran, systems are well advanced. We know that our health visiting team will pick up the role of named person for the under-fives. Our midwifery service will be working hard to take that forward.

If we are to do more than just implement the wording of the bill and instead try to achieve the bill's aim of a much better society in Scotland, and if we are to improve our culture, we have to consider the amount of time that it will take to engage with more difficult families. We believe that that is a significant burden that will, I admit, build up over a period of time for our midwifery and health visiting services.

11:00

We have time to meet our statutory obligations and we are doing that fairly well, but if we are to have a conversation with a new mum around alcohol, how it relates to foetal alcohol syndrome and the impact that that could have on her, her children and her family over the later life course, that requires the development of a relationship. The current systems do not allow for that on every occasion. That approach also requires the development of good communication skills and the ability to raise difficult issues and agendas, which will be problematic.

We are asking the health visitor, as the named person, to co-ordinate all the information that comes from a number of services and pull it together to adopt a basic analysis to identify whether there are issues for the particular family, and then to pass on those issues. However, that will take a significant time, and we are not confident at present that the resources are there in those services to enable that.

We will be able to perform our services according to the word of the legislation, but that is not our issue. If you really want us to get behind the issues that exist and find resolutions for them, that will take time and resources, and at present they are not there. We expect to see investment being recycled, if you like, from the money that is being put into the early years collaborative later in the life course. We hope to see a reduction in the

number of children who are looked after and accommodated, for example. However, we do not have systems that can identify where those savings have been made, because that will perhaps happen 10 to 15 years later. Then there are questions about how to recycle that funding back into the early years to continue the process and build on it.

There are a number of challenges in the issue that Margaret Mitchell asked about.

**Dr Mullin:** I agree with a lot of what Mr Carle has said. For the under-fives—pre-schoolers—it is logical to have health visitors as the named person. For schoolchildren, there is a massive gap. If a child becomes vulnerable at four or five, they will probably still be vulnerable at six, seven and eight, but I do not believe that there is enough capacity for that work to be on-going in a meaningful way in the education system.

I am quite relaxed about the named person idea. Most people have a named general practitioner, and GPs are often the source of referral for many different agencies that are looking for bits of information or have something to tell us about a family or individual. I would like the GPs—and GPs at the deep end have stated this desire strongly—to have far more involvement with vulnerable children and families. There needs to be something more substantive in general practice.

**Carol Kirk:** There is a challenge for a lot of services. We have discussed whether, given that probably more than 98 per cent of three to five-year-olds are in early years provision where they are seen every day by nursery practitioners, the named person would have been better situated in that place. We have raised that on a number of occasions.

We have been operating with GIRFEC and the GIRFEC guidance for some time, but it is not easy. In primary schools, the headteacher or the additional support needs co-ordinator, who is often either a depute or a principal teacher, usually gathers information from a range of agencies. That can be quite complex and time consuming, even before the information is looked at. The issue is not that there is a lack of willingness but that the capacity that is required to do that is a strain on the system.

However, that is perhaps not as much of an issue as that of looking at a young person with more complex needs and the transfer from that approach to someone being the lead professional. That tends to sit with social services, but that is not necessarily where it should sit. In some cases, it would be better for it to sit with the school or with a health professional. A bit more work is needed

on that to free up the time for the appropriate professionals to take that role.

In our consultation on the issue with parents, we had quite a kickback about the term “named person”. A number of our parent councils expressed significant concern about it, with people saying, “I should be my child’s named person.” When we explained the concept behind it, they were fine with it, but their initial reaction to the name was not one of unqualified approval. That is a challenge. We need to be explicit about what the role is and how it will be implemented. Some of the things around information sharing and the shared systems that will be used will make the process less onerous, but there is still an issue about how that comes together.

We are also concerned about the issue of who the named person is for children who are home educated. Local government education departments have no locus in that regard. With regard to health, who would take that forward for young people of primary and secondary school age? That is not explicit in the legislation. If we want to have a net to catch every child, we should be aware that there is a group of children that could slip through that net.

**The Convener:** Miss Taylor, this is not really your field.

**Mary Taylor:** That is correct. I have nothing to add.

**Eddie Fraser:** I concur with Carol Kirk. There is a difference between the most vulnerable children, who have a lead professional and multi-agency involvement, and the wider population of children, in relation to whom the concept involves allowing easy, named access to that world and enabling proportionate access to professionals rather than having people who are involved with them every day of their lives and who take over some of the role of parents.

**Margaret Mitchell:** Miss Taylor, do you have no locus in this? Some information about housing and what is going on in a home can be very pertinent. I would imagine the SFHA might have something to say in that regard.

**Mary Taylor:** A social landlord might have an understanding of what is going on in a home—that occurred to me as I listened to the responses. However, we have opted not to make any formal comment in that regard, and I do not want to simply react to things today. I think that the important point is that the landlord’s relationship is primarily with the householder, who will always be an adult, even if they are 16, 17 or 18.

**The Convener:** It would be fair to say that housing assistants throughout the country play a major role in finding difficulties and pointing them

out, but they are unlikely to be the named person in this regard. That is the key thing. That is why I said that this was not really your field. I am sure that housing assistants and housing visitors will continue to do what they have been doing in this regard for many years.

**Mary Taylor:** It is not because we are not aware of chaotic lifestyles or whatever. I could elaborate on that, but this is not the place.

**Richard Baker:** Carol Kirk said that there was a potential to simplify structures to benefit services, which is something that we would all support. She also said that we need to be careful that we do not just create additional structures rather than simplify the structures in a way that will make the process easier.

Will the Scottish Government get that balance right? Obviously, we are also considering the Public Bodies (Joint Working) (Scotland) Bill. Is the balance right as the proposals stand, or does it need to be worked on further?

**Carol Kirk:** It possibly needs to be worked on further. Even in the Children and Young People (Scotland) Bill there is much more of a statutory imperative around children’s services planning, which I think that people would welcome, but I would ask why we need a plan on corporate parenting that sits outwith that. I cannot see why that would not be merged into the same plan, given that the plan is concerned with a range of vulnerable children.

With regard to issues around the individual children, there is a complex framework, not only for local government but for parents. GIRFEC provides a structured and helpful way of planning for a child, in the round, and I am supportive of that. However, it crosses over with, for example, a co-ordinated support plan for a child who has complex needs. The additional support needs legislation does not sit entirely comfortably with the guidance around GIRFEC. It is possible to merge them, but it would still involve having two statutory frameworks, which does not make sense to professionals working in the area and probably makes less sense to parents.

**The Convener:** I return to a point about GIRFEC. I mentioned that I visited some doctors’ surgeries during the recess. I am interested in systems that do not talk to one another and which complicate the spread of information. What are your experiences of that? Could a bit of common sense and a bit of gumption be applied to deal with some of that? Do we overly complicate such systems?

**Jim Carle:** Yes, it is a real issue. The professionals are good at communicating with one another, but if we want to deal with the issues that are on the table, we need to have a better look at

that issue. I will pronounce this really carefully, but the Scottish Government needs to GIRFEC itself; it needs to look at the interrelationship between different bits of legislation, how they cut across each other and the number of demands that have been put on different aspects of professional organisations.

We do not need conflicting legislation. We do not need legislation that tells us to report to 16 different organisations, all on the same subject. A number of issues that we are dealing with in local authority and health board areas come from that source.

A significant amount of work needs to be done to resolve the systems that we have and to ensure that we are working to a common system and a common language. In Ayrshire and Arran we have AYRshare; we hope that that will take us some way down that road, but there is still a need for the organisations that we work with—education, social work and health—to have their own systems underneath all of that. That is an industry in itself and they all have different reporting mechanisms that work within that.

Somebody who sits in my position frequently answers the same questions to a number of different aspects of the Scottish Government. Again, that is about public money and public time that could be used better and more effectively on the issues that we have to deal with—issues that the other members of the panel have outlined so well.

**The Convener:** The term GIRFEC has to be said very carefully—I nearly did not say it the right way there.

**Dr Mullin:** Sensitive data sharing is a real issue for general practice and other agencies: how you filter what you talk about informally, in corridor chat and various other ways, and what you are prepared to put down on paper.

With child protection issues, it is fairly straightforward. I do not think that many GPs wring their hands over that. If they suspected anything, they would divulge that information quite readily. However, we are talking about the majority of vulnerable children in this country—probably about 20 per cent of 1 million children—who have unmet needs. The sharing of information around the subtleties of parenting and all the issues around deprivation and so on is a big piece of work that still needs to go on because some parents are very reluctant—naturally enough—for you to speak to other agencies about their own personal, private lives because that impacts on their parenting skills.

The only way round that is for extensive work to be done between the front-line GPs and social work, which is probably the main referral agency if

you are talking about catapulting into the child protection system or legislative intervention. Otherwise, the majority of children who are vulnerable in general practice will just be signposted to other services for support; they are not being signposted into prosecuting the parents because they are battering their children. We are talking about parents who are not coping, for whatever reason.

A lot of such information comes into the consultation and the issue is how that is filtered. It is about experience—having experienced GPs who have met a lot of children and families in their lifetime—but it is also about having the work supported within the GP contract.

**The Convener:** I ask everyone to be brief, because I am hoping to get another question in. Ms Kirk, please.

**Carol Kirk:** That is right. The particular issue is not at the child protection end; it is the very large group of children for whom poverty and difficult home circumstances are impacting. We need to get much better at direct communication around that issue that possibly does not involve social services.

With AYRshare, one thing that we have considered—in fact, we had a meeting about it yesterday—is how GPs can have automatic access to the system. They might have a wee concern because they do not feel that some information can be shared of its own right but, if they have access to what other professionals have put on the system, that maybe builds a picture and allows them to say that they have a real concern. Achieving that level of shared information as easily as we can is a real issue for us.

11:15

**Eddie Fraser:** One of my responsibilities is to run out-of-hours social work services across Ayrshire. Working with three social work systems and trying to get out-of-hours health information is a difficult challenge. Improved information sharing, whether it be electronic or, better still, just talking to each other, would be a real move forward. That is where co-location comes in. I mentioned some of the services that we have co-located, such as mental health and learning disability services. In that situation, a social worker will just go along to the learning disability nurse and say, “Will you come out with me today and see this?” That communication happens and it works. On another level, we need to consider how to develop electronic information systems. I know that, through the Public Bodies (Joint Working) (Scotland) Bill, some money is being made available to move that on, but that has been a challenge for us for at least the past decade.

**John Wilson:** I want to follow up on a point that Mr Fraser made earlier, although my question has been partly answered in the previous round of answers. Mr Fraser referred to the fact that GPs are not as actively involved in the community health partnerships as they could be. My concern about the named person and protecting vulnerable young people is about how we ensure a smooth transition from pre-school to the school period and that the appropriate professional is the named person. For pre-school, that person could be the health visitor, but when the child starts school, it could be a social worker, a teacher or someone else. Might that give rise to issues? We must ensure that every child has a named person who can not only gather information but give it to other professionals to ensure that the child is protected.

**Eddie Fraser:** At a very basic level, one measure of success is that the child and family know who the named person is. Sometimes, in my service, when someone is asked whether they have a social worker, the answer will be yes, but they will give the name of somebody who left two years ago. Sometimes, the answer will be no, but we know that the person has a social worker. There are real issues about whether the role of named person will fulfil its function. You are right that children move through systems. If the approach is to be successful, who the named person is must be clearly communicated to the child and family. Families continually tell us that the lack of continuity in the people who support them is a real issue. I know that GP colleagues will say that, a lot of the time, the continuity comes through their practice.

**Carol Kirk:** The key to the issue is good relationships between early years establishments and health visitors. Health visitors will have a huge case load of children for whom they are the named person. When those children transit from the early years establishments to school, the named person will become someone in the school although, if the child is very vulnerable, the health visitor might retain that role until an appropriate time for handover. The key issue is to ensure that transition meetings take place and transition plans are produced for any children about whom a health visitor has a concern. Linking the health visitors directly to the early years establishments and involving them in the transition to primary 1 is the key way of ensuring that that happens. Another key issue is ensuring that, when a child moves into primary 1, the parents know who the named person is.

**Mary Taylor:** I wanted to come back on the previous question, but I am happy to wait until the end if you want.

**The Convener:** Fine. Dr Mullin?

**Dr Mullin:** I do not want to go into too much detail about the named person for over-fives. That is still something that has to be worked out. We are still often the referral point for older children, because agencies have withdrawn for whatever reason, because they do not need help any more, or because they have become vulnerable again. Because most people have a named GP, services or people will come to the GP. There is a big schism between education and general practice; there is not enough dialogue there.

The deep end has talked about integrated working and attached workers, but the only way to make any of the systems work is to have integration of communication. It is about professionals being able to communicate with and understand one another, and child health in general practice has been peripheral to many of those developments, although we are often the central point of referral for many agencies. The deep end has a clear view on that, which is outlined in our proposals.

**Jim Carle:** I agree 100 per cent with what Carol Kirk said. We need to align health visitors carefully with early years establishments, and a good relationship needs to be built and maintained in that process. My concern for health visitors is about the resource requirements and the additional burden that that will bring. GPs are the critical partners in most of what we do in children's and young people's services. They are the pivotal point around which families revolve, so communication systems must be developed well to support their practice. If there is a hierarchy within the system, they are among the most valuable partners.

Our difficulty is in assessing what happens with health visitors beyond the age of five, when the burden of being the named person is placed on our education colleagues, who must have good support systems in place. We are new to the whole process. We do not yet have a huge amount of experience of those transition arrangements, but good communication and professionals talking to professionals to ensure that we are talking the same language and that we understand the issues will be critical to the whole process. The strength behind that is that we have well-established communication frameworks where we can raise those issues, and we will find shared resolutions. However, the problems should not be underestimated, either in terms of the additional resource required or in terms of the critical nature of the relationship between health visitors and early years establishments.

**The Convener:** Miss Taylor, I shall let you come back very briefly.

**Mary Taylor:** On the general issue about systems not talking to one another, there is an

operational dimension, which we have spent a lot of time talking about, and a strategic dimension. The operational dimension intersects with the housing system in the sense that, for example, someone who is leaving care and who may have had a history of social work interventions as a child may then be at risk of homelessness and may enter the housing system as a social tenant through the homeless route. There is an interesting issue there about how much information passes with that person to the people who take him or her on as a landlord, to enable them to understand what interventions have worked and who has been involved in the past. Operational practice is much patchier than it really should be.

With regard to the other side of the operational information, I know that there are projects in Glasgow where housing associations are actively working with police and fire services to ensure that they get effective data sharing, information sharing and knowledge sharing at a local scale, so that they can tackle problems on a preventive basis. They have been able to document the extent to which they have saved lives and extensive budgets on vandalism, fire damage and other things.

However, I return to the point that I made at the beginning, about strategic information. There is a whole lot of information around strategic planning that relies on decent data sharing and integration of practice around strategy, and that is where housing can make a significant contribution—but only if it is required.

**John Wilson:** I have no further questions.

**The Convener:** I thank the witnesses for their evidence, which has been useful.

11:24

*Meeting suspended.*

11:33

*On resuming—*

**The Convener:** We move to our final panel. I welcome from the Scottish Government Alex Neil, the Cabinet Secretary for Health and Wellbeing; Aileen Campbell, the Minister for Children and Young People; Kathleen Bessos, deputy director for integration and reshaping care; John Paterson, divisional solicitor for food, health and community care; Alison Taylor, team leader for integration and reshaping care; Philip Raines, head of child protection and children's legislation; and Magdalene Boyd, solicitor for communities and education.

I ask the cabinet secretary to make opening remarks.

**The Cabinet Secretary for Health and Wellbeing (Alex Neil):** Thank you for inviting Aileen Campbell and me to make statements and answer questions. I will confine my remarks to the Public Bodies (Joint Working) (Scotland) Bill, which deals with the integration of adult health and social care. The bill's purpose is to provide a framework for the integration of health and social care, with the aim of improving outcomes for service users, carers and their families. That is at the heart of our policy.

We are legislating for national health and wellbeing outcomes that will underpin the requirement for health boards and local authorities to plan effectively together to deliver quality and sustainable care services for their constituent populations. It is important that the bill aims to bring together the substantial resources of health and social care to deliver joined-up, effective and efficient services for the increasing number of people with longer-term and often complex needs, many of whom are older.

The bill requires health boards and local authorities to establish integrated arrangements through partnership working and it requires statutory partners to integrate via one of two models—delegation to a body corporate that is established as a joint board, or delegation to each other as a lead agency, which involves three possible models. Health boards and local authorities will be required to delegate functions and budgets to the integrated partnerships, and secondary legislation will set out such matters and will cover adult primary care and community care, adult social care and aspects of acute hospital services.

Integrated partnerships will be able to include other services, such as children's services, when a local arrangement is made to do so. That already works well in areas across Scotland, such as West Lothian and Highland.

Each partnership will be required to establish locality planning arrangements, which will provide a forum for local professional leadership of service planning. Integrated partnerships will also be required to prepare and implement strategic commissioning plans that will use the totality of resources that are available across health and social care to plan for local populations' needs. It is important that professionals, service users, GPs and the third and independent sectors will be embedded in that process as key decision makers.

The bill is in the context of public service reform. Alongside the Children and Young People (Scotland) Bill, which Aileen Campbell is leading, it is part of the Government's broader agenda to

deliver public services that better meet the needs of people and our communities. The Public Bodies (Joint Working) (Scotland) Bill provides a legislative framework for partnership working at strategic and local levels that involves professionals, service users and partners. The planning and delivery principles in the bill encapsulate the Christie commission's principles by putting the person at the centre of service planning and delivery and require a focus on prevention and anticipatory care planning.

As for why we need to legislate, my predecessor, the Deputy First Minister, proposed to Parliament in December 2011 the introduction of the bill, which had cross-party consensus. We are all aware of attempts in the past to integrate the services, with greater or lesser success. Underpinning the process with a legislative requirement is essential to achieving our objective.

We are not starting with a blank sheet. In many areas across Scotland, bodies are already working in partnership to deliver integrated services. We have considered the evidence from across the UK and we are mindful about applying it in Scotland. However, I am clear that, to achieve consistent progress, it is necessary to set out in legislation a framework that is not too prescriptive and will deliver the necessary changes to meet the future demand on services. I welcome the opportunity to provide further clarity on the bill to the committee.

**The Convener:** Does the minister have anything to add?

**The Minister for Children and Young People (Aileen Campbell):** Yes. Good morning and thank you for inviting me to give evidence on part 3 of the Children and Young People (Scotland) Bill—on children's services planning—which was introduced in Parliament on 17 April. The bill is fundamental to securing the Scottish Government's aim of making Scotland the best place in the world to grow up in. Through the bill, the Scottish Government aims to ensure that children's rights properly influence the design and delivery of policies and services. The bill aims to improve how services support children and families, to strengthen the role of early years support in children's and families' lives and to ensure better permanence planning for children and their families.

The report of the Christie commission on the future delivery of Scotland's public services highlighted that services must better meet the needs of the people and communities that they serve. In welcoming the report, we set out a vision of reform through early intervention and preventative spending, greater integration and partnership locally, workforce development and a sharper and more transparent focus on performance.

The Children and Young People (Scotland) Bill will be fundamental to our achieving those ambitions on rights and services. It aims to put Scotland at the forefront of providing services that give children, young people and their families what they need and deserve, and find better ways of offering better life chances to each and every child in Scotland.

I am delighted to have an opportunity to speak to the committee about part 3 of the bill, which is on children's services planning. In recent years, there has been increasing integration in how public bodies develop, plan and operate services to support children and young people. However, unless services work together, there is a danger that something important will be missed and a child or young person's wellbeing will suffer. Children and young people need not just co-ordinated services but services that share an holistic approach to wellbeing and early intervention. Children deserve services that routinely and consistently consider the full spectrum of their needs.

Part 3 sets out the duty of local authorities and health boards, with the assistance of other public bodies and third sector organisations, to work together to develop joint children's services plans every three years. The intention is that bodies that are responsible for expenditure and for planning and delivering services will work together to improve the wellbeing of all children and young people in their area.

Currently there is no requirement for public bodies to report collectively on how the lives of children and young people are improving. To give the public and children and young people a full picture of how wellbeing is being promoted, supported and safeguarded, local authorities and health boards will report each year on the extent to which they have achieved the aims of their children's services plan. That will enhance the implementation of getting it right for every child and make a direct and accountable link for the public between local services and outcomes for children and young people.

I hope that I have given the committee some useful background information. I will be happy to take questions from the committee on part 3.

**The Convener:** Thank you, minister. The evidence that we heard today on the difference that GIRFEC has made was mainly positive. However, a few things cropped up, one of which was the perennial question about communication and systems that do not talk to one another. How will we tackle the issue, which causes great difficulty sometimes?

Another interesting issue that was raised was how we deal with named persons for children who

are home educated, given that an educationist would normally be the named person for a child of school age. Will you respond to those points, minister?

**Aileen Campbell:** It is good to hear that you had such a positive session on GIRFEC. As you know, GIRFEC has been around for a while. The bill provides the opportunity to embed the approach further, putting the child at the heart of the design and delivery of services.

You asked about communication. Part 3 is about ensuring that joint working happens. I think that this morning the committee heard good examples of joint working and the strong relationships and good communication that are crucial to the delivery of services that a child or family needs.

There is the joint services element of the bill, and we want a reporting mechanism that brings together local authorities and health boards. We will ensure that such an approach is standardised and embedded in the bill, to ensure that there is an holistic approach that reflects the child's holistic needs and promotes the child's wellbeing.

As the bill progresses through the Parliament, I know that the Education and Culture Committee, which is the lead committee, will take a strong interest in the named person aspect, because of the issues that have arisen in that regard. From our point of view, the named person is a big part of the GIRFEC approach. It is about ensuring that services are delivered consistently, that families have a point of contact and that support is in place.

We are well aware of the issues that have arisen in relation to home-educated children. We are working with stakeholders to ensure that, through guidance for example, procedures are put in place to reflect the parental choice to educate a child at home—it is right that there is such a choice, because the parent is the person who knows the child best. We will ensure that that is reflected in the bill and in the guidance.

**The Convener:** Mary Taylor, the chief executive of the Scottish Federation of Housing Associations, told us this morning that the housing sector is not really taken into account in either bill. She thinks that the sector has a major part to play in integration. Will you comment on that, cabinet secretary?

11:45

**Alex Neil:** Absolutely. I agree with Mary Taylor that it is essential to involve the housing sector, particularly the social housing sector. Many of the issues that we are dealing with, whether delayed discharge, aids and adaptations or a range of

other issues, clearly require the involvement of housing associations and local authority housing departments. We have a stream of work going on, which I commissioned a few months ago, to see how we can best ensure that the housing function is involved at grass-roots level in the partnerships. It may not necessarily be the case that housing bodies are separately represented on partnership boards, but I think that the most important element is what happens in the localities underneath the partnership board area. That is where the close working relationship between health, social work and housing is vital. Both the ministerial steering group and the bill steering group are looking at how best to achieve that.

**The Convener:** Minister, do you want to follow up on that?

**Aileen Campbell:** Yes. Section 10(1)(b)(ii) in part 3 of the Children and Young People (Scotland) Bill explicitly refers to consulting

“such social landlords as appear to provide housing in the area of the local authority”,

when the local authority is preparing a children's services plan, so there is explicit recognition of the role that housing can play in a child's wellbeing.

**The Convener:** Thank you.

**Margaret Mitchell:** Good morning. It is clear from the very comprehensive opening statements from the cabinet secretary and the minister that both bills contain provisions that require consultation on their respective shared services provision. Section 6(2)(a) of the Public Bodies (Joint Working) (Scotland) Bill requires consultation to be with

“such persons or groups of persons appearing to the Scottish Ministers to have an interest”.

Section 10(2)(a) of the Children and Young People (Scotland) Bill requires consultation with organisations that

“represent the interests of persons who use or are likely to use any children's service”.

However, neither bill appears to require consultation with individual service users.

Despite your emphasising that the provisions are based on the Christie commission recommendations and that we are putting children at the heart of the process, the fact of the matter is that, as you have explained it so far, there does not seem to be a requirement to consult the child or the young person.

**Aileen Campbell:** As Margaret Mitchell correctly notes, the ethos of the bill is getting it right for every child and putting the child at the centre of service design and delivery. The bill mentions setting out guidance on how consultation might take place on potentially bringing into the

planning process third sector providers and whoever else is appropriate, which will include the child and the families. However, as we develop the guidance, we can certainly make it explicitly clear that consultation should recognise the role of the child and the family and ensure that they have a full and active role in the service design and delivery that is going on around them.

**Margaret Mitchell:** May I put a specific, quite technical question to you, minister? You will be aware that the Children (Scotland) Act 1995 drew everything affecting children into a single act. The act had three overarching principles, but the key one was to require the child to be given the opportunity to express their views. Obviously, their welfare is required to be a paramount consideration and there is the requirement that the minimum proportion of state intervention be preferred over disproportionate intervention in family life. Subsequent legislation affecting children and young people—for example, on children’s hearings and adoption—has ensured that those requirements are incorporated, but that is not the case with the Children and Young People (Scotland) Bill. Why is that?

**Aileen Campbell:** Again, the bill takes appropriate account of the child and the family. That is the ethos of GIRFEC, which is about ensuring that services provide support to families when they need it and that such intervention is appropriate and timely, and is delivered at the right point to avoid crises, given that intervention is most effective when it is done as early as possible.

It is worth recognising that the 1995 act is still in place and that our aim is to ensure that we make the bill as good as it can be, that we can work things through in consultation with stakeholders and that our guidance reflects the points that you have raised as much as it can.

Philip, do you have anything to add?

**Philip Raines (Scottish Government):** Section 9, which relates to the aims of the children’s services plan and sets out many of the principles that we want to underpin the planning of children’s services—and, by extension, the way in which children’s services are carried out—makes it clear that planning should take place in a way that

“best safeguards, supports and promotes the wellbeing of children in the area concerned ... is most integrated from the point of view of recipients, and ... constitutes the most efficient use of available resources”.

We wanted to make many of those principles explicit in the bill to ensure that they underpin the planning that takes place. As the minister has said, we will work with stakeholders on the detail of that and how that will work in practice as we develop guidance.

**Margaret Mitchell:** The fact that the issue is not implicit in the bill as it has been in other bills has led some to comment that this is a duty on public services rather than anything in particular to do with the rights of the child. That, I think, is the technical point.

Do you wish to comment on the suggestion made by an earlier witness that, in view of this legislation and potentially competing legislation, the Scottish Government should GIRFEC itself?

**Aileen Campbell:** Should what itself?

**The Convener:** GIRFEC itself.

**Margaret Mitchell:** They were referring to getting it right for every child. The suggestion was that the Scottish Government should look at the various bits of legislation that might compete with, conflict with or duplicate one another.

**Aileen Campbell:** The bills complement one another; in fact, a lot of work has been done to ensure that not just these two bills but all the bills that we introduce complement one another. From my point of view, the Children and Young People (Scotland) Bill is about ensuring that the United Nations Convention on the Rights of the Child is taken far more into account in the work that we as a Government do. That applies not just to this bill but to all our work across Government, regardless of whether we are talking about legislation. The Government has been working in a joined-up way to ensure that the bills are complementary and that the work of Government in future dovetails and provides the good outcomes that we expect to emerge from the bills that we are presenting today.

**Margaret Mitchell:** Did you hear the previous panel’s evidence?

**Aileen Campbell:** I did not catch it all. Did you wish to raise a specific issue?

**Margaret Mitchell:** I simply refer you back to the specific examples of conflicting legislation and duplication that were highlighted and suggest that the previous panel’s evidence on that specific point might be worth looking at.

**The Convener:** I am sure that, as per usual, the minister will do so.

**Richard Baker:** Although the previous panel was very enthusiastic about the potential for integrating and improving services through legislation, the witnesses asked that, in pursuing this agenda, we were careful not to create new and additional structures instead of simplifying things. How would you allay such concerns?

**Alex Neil:** To some extent, the legislation will streamline structures and make it easier to see the focus for partnership working. We have clearly specified that one of two models must be adopted:



the lead agency model that has been adopted in the Highland area or the joint corporate body model, which I think will be adopted in most if not by all of the rest of Scotland. As a result, there is scope for many existing committees to be streamlined. For example, one of the consequences of the enactment of the Public Bodies (Joint Working) (Scotland) Bill will be that there will be no need for separate CHPs because their work will in effect be incorporated into the partnership. Moreover, with the introduction of a much more formal structure, the many formal and informal organisations involving health boards and local authorities at local level can be collapsed. In that way, the legislation will simplify the structure.

The role of the chief officer in the partnership will also be crucial because they will do two things: first, report to the partnership board—or the lead agency, if a lead agency model has been adopted—but, secondly, report to the respective chief executives of the local authorities. For example, such an approach has been up and running very successfully in West Lothian for eight years now and integration and co-ordination at parent organisation level have been substantially enhanced as a result of the partnership's work.

I should stress that, from day 1, we want the acute health sector to be actively involved in the partnerships. When we involve acute care in the community, many of the barriers that exist between the primary care sector and social care, and between the primary and secondary care sectors, start to get broken down. A good example of that is the hospital at home programme that NHS Lanarkshire initiated, which is now being rolled out across the country. I think that that will remove barriers and bureaucracy, cut red tape and lead to much more localised provision.

In addition, we have commissioned—jointly with our colleagues in the local authorities—some work to look at where the public health function would sit in future. In the post-war situation, the public health responsibilities were given exclusively to local authorities. Under Ted Heath, they were transferred exclusively to the new health boards. South of the border, they have been split up between the health boards or their equivalents and the local authorities. My view is that a successful public health policy requires the health boards and the local authorities, with their respective remits, to work in an integrated fashion. I think that an opportunity exists, particularly in public health, not just to enhance the service, but to break down the barriers that have traditionally existed between the different sectors and to streamline the entire process.

**Richard Baker:** That is helpful, but there is still a concern about the details of what is proposed and how it will work in practice. In its submission

to the committee on the two bills, Audit Scotland said:

“Significantly, the relationship between CPPs and the new integrated health and social care arrangements ... and changes to children's services ... are not clear.”

Will greater clarity be provided on some of the working arrangements before the bills are finalised?

**Alex Neil:** I am surprised by that comment, because I believe that Audit Scotland is represented on the group that is chaired by Pat Watters, the former leader of the Convention of Scottish Local Authorities, which is looking specifically at enhancing the role of the CPPs in relation not just to health and local authorities, but to the entire public sector operation at local level.

It is likely that the output from that group, which includes representatives from a wide range of organisations including COSLA and the Society of Local Authority Chief Executives and Senior Managers, will take forward in a substantial way greater co-ordination and integration of services across the board at local level. In particular, I know—because I am a member of the group—that it has had serious and in-depth discussions about the need for bodies such as health boards and local authorities, and others, to discuss annually their strategic budget proposals before they agree to implement those proposals, in an effort to ensure that across the public sector, in each local authority area, we maximise the impact of the public pound. Therefore, I am surprised that Audit Scotland has made that comment.

**Richard Baker:** Well, it has made it, so—

**Alex Neil:** I draw your attention to the work of the group that is chaired by Pat Watters.

**Richard Baker:** I am sure that you and Pat will discuss the matter—

**Alex Neil:** Absolutely.

**Richard Baker:** I do not want to labour the point, but it is worth reflecting on the fact that Audit Scotland raised the issue specifically in relation to CPPs.

**Alex Neil:** Pat's group is looking specifically at the role of CPPs and how there can be much greater integration and co-ordination across the public sector in each local authority area.

**The Convener:** I am sure that the committee will talk to Mr Watters again shortly, because we said that we would.

**Stuart McMillan:** Good morning, panel.

My question is directed mainly at the cabinet secretary. The Public Bodies (Joint Working) (Scotland) Bill is, obviously, about public bodies; it is not about other organisations. Prior to the

summer recess, the committee concluded the latest instalment of its inquiry into public services reform. An issue that came up in all three of the stages of the inquiry that we undertook was community and third sector involvement in the shaping and delivery of public services.

During one of the visits that I undertook over the summer, a council of voluntary services made the point that the Public Bodies (Joint Working) (Scotland) Bill appears to make no mention of community involvement. Now, I accept that the bill is about public bodies rather than about communities per se, but it appeared to that CVS that the bill is about something that is being done to people rather than in conjunction with the community. Should there be a wider discussion with communities to provide that involvement?

12:00

**Alex Neil:** Let me make it clear that, as should be evident from the policy memorandum and from the bill itself, we see the third and independent sectors as having a very important role not just in the delivery of services but in the design and architecture of services.

I think that there is a bit of a misconception here, and let me explain why. Because the health board and the local authority are the public fund holders, only they have a vote on the partnership board. However, as we have seen in West Lothian and elsewhere, the third and independent sectors are represented on the boards. We would envisage that happening in every case because the third and independent sectors clearly have a major role to play. Obviously, we need to ensure that there is no conflict of interests, because we cannot have people who are competing in a tender for service delivery simultaneously sitting on the board. However, those governance issues are not new and have been with us for a long time.

You just need to look at West Lothian, which is a kind of exemplar for the joint corporate body model in Scotland, to see that the third and independent sectors have a role not only in terms of board membership but—more important, actually—in designing and delivering services at the locality level. They are heavily involved in that. Also, where there are any proposals for service redesign, the third and independent sectors are involved in the process and in the consultations on the redesign of services. I would take West Lothian as a very good example. We would expect that kind of standard of consultation with, and standard of involvement of, the third and independent sectors to be followed. Indeed, we will require that, and we will incentivise the use of the third and independent sectors where that is appropriate.

**Stuart McMillan:** That is helpful, thank you.

**The Convener:** Cabinet secretary, you have mentioned that West Lothian is probably the exemplar for this kind of work. In the evidence from East Ayrshire Council earlier today, we heard that co-location can help a lot in that regard. Obviously, West Lothian Council has its new civic building, where teams from across the public sector can work side by side at desks next to one another. That seems to make joint working easier. In your opinion, is co-location required to ensure that all these things work properly?

**Alex Neil:** I would not like to prescribe that co-location is always a prerequisite to approving any delivery plan, but I must say that, in the examples that I have seen, co-location is definitely very advantageous. In the East Ayrshire Council headquarters building on London Road in Kilmarnock, the co-location of services there is definitely a huge advantage in providing for integrated delivery.

I draw your attention to a pilot project that is being run in the mining village of Dalmellington in East Ayrshire. That joint project, which involves the third sector as well as the local authority and the health board, is using telehealth to help older people with co-morbidities. Over the 21 months that the pilot has been running, the GP in charge says that, for the 20 older people with co-morbidities who are involved in the pilot, there has been a reduction in hospitalisation of that cohort group that has been of the order of 70 per cent. That is a very practical example.

Similarly, in your part of the world, convener, in Aberdeen and Aberdeenshire, social workers are co-located in some of the NHS Grampian community hospitals. In Fife, although the partnership boards have not yet been set up formally—they are still prototypes—there is already co-location of health and social workers, for example in Dunfermline, and there is no doubt that it adds great value to the quality and efficiency of service delivery.

**The Convener:** We have heard your Dalmellington story before, cabinet secretary, and I am glad to hear it again, as I have been telling it elsewhere.

Minister, do you have anything to add on co-location?

**Aileen Campbell:** The cabinet secretary said that co-location is not a prerequisite for greater integration, but the anecdotal evidence from the service user's point of view is convincing. If someone needs a bit of extra support, they can go to a service that is co-located with social workers, GPs or whoever and they do not face the stigma that is attached to seeking help from that service because they are entering a building in which a

variety of different services are provided. People can be a bit more proactive in seeking help and can feel reassured that there will not be any stigma attached to that and that people will not start talking about them. The anecdotal evidence from the point of view of the service user is compelling regarding how they feel when they enter a place where different services are co-located. They find that a good experience for them.

**The Convener:** Thank you very much.

**John Wilson:** Good afternoon, cabinet secretary and minister. Cabinet secretary, you have spoken about integration measures. According to our Scottish Parliament information centre briefing, there will be two broad models of integration, which will be broken down into four different models. The first model is the body corporate model, under which local authorities and health boards will come together to form a joint board that will be separate from the local authorities and health boards and will be led by a chief officer. Do you see that chief officer being separate from the health board and the local authority, and will that require the creation of a new post?

**Alex Neil:** It will be a statutory post after the bill has been passed. That said, we must be pragmatic. Again I refer to West Lothian, where the chief officer has come from a health board background but is on the senior management team of both the local authority and the health board. The important thing is that the chief officer reports primarily to his or her own board but also has a line of responsibility to the chief executive of the local authority and to the health board. In West Lothian—and, indeed, in other areas where it is earlier days than in West Lothian—that arrangement has worked very well.

**John Wilson:** What I am trying to get at is whether we will see the creation of a new administrative structure for the delivery of services. If we create a new administrative structure, how will that be paid for?

**Alex Neil:** By definition, the partnership board is a new administrative structure because such boards do not exist at present, and the role of the chief officer is a new position in that sense. The important thing in paying for that is the integrated budget. I will give you a good example. I have been encouraging local authorities and health boards up and down the country to follow the example of West Lothian and establish a step-up, step-down centre as one way of improving the transition from hospital back into the community. The centre has also contributed to the elimination of delayed discharges in West Lothian. If West Lothian did not have a partnership board, the health board's and the local authority's respective

shares of the funding for the project would have to go through separate decision-making processes within both the local authority and the health board, through the committee structure and all the rest of it.

When you have integrated budgets, that is decided internally, within the partnership board. The decisions can be made quicker but, more important, they will be taken in the context of the strategic plan that is laid down and agreed by the partnership board, which would obviously have to be endorsed by both the health board and the local authority. You get much quicker decision making and much more co-ordinated and integrated approaches. The evidence from north and south of the border—from Torbay, for example—is that the quality of the decision making is far better. Most important, not only do you end up with far better outcomes, but those outcomes are delivered far more cost effectively, which is a big prize.

**John Wilson:** I welcome what you said about West Lothian, but you are not promoting the West Lothian model throughout Scotland; four different models of integration can be taken from the proposals that are before local authorities and health boards. Would it not have been better to have applied the West Lothian model of integration throughout Scotland, so that a uniform model would be adopted by all local authorities and health boards?

**Alex Neil:** From day 1, including under my predecessor, Nicola Sturgeon, this has been an iterative process of discussion between us, the local authorities, which have been represented by COSLA and SOLACE, and the third and independent sectors. My approach to the development of the models, and indeed to the whole bill, has been to try to get consensus among the local authorities, the health sector, the Scottish Government and the third and independent sectors. On the basis of those bodies' experience, track record and expertise in delivering the services, they are all pretty much of the opinion that there should be a degree of choice so that each area can decide how best to deliver in their area. Highland has decided on a particular variation of the lead-agency model and all the indications are that it is beginning to work well and to deliver substantially improved services and outcomes.

We have said all along that it would be inappropriate for us to sit in Edinburgh and prescribe every detail of the arrangement in each of the 32 local authority areas. How you would structure services in Glasgow, where you have one health board and six local authorities, is completely different from how you would structure them in the Borders, where you have one local

authority and one health board with coterminous boundaries.

We are saying that the principles that matter to us are that there is a statutory underpinning to the integration of adult health and social care and that there is an integrated board, budget and strategic plan. That is why the bill sets out the framework. Within that framework, we are saying to local people, "You decide what's best for your area, because politicians and civil servants sitting in Edinburgh don't know enough about what's happening in your local area to dictate to you how all the i's are dotted and all the t's are stroked."

**John Wilson:** Having said that, can you assure us that the reporting and monitoring regime carried out by the Scottish Government will be consistent across all models of integration used by health boards and local authorities?

**Alex Neil:** Absolutely. We have said clearly that, in measuring success, the key thing that we are interested in is the national outcomes. You might ask why the outcomes are not on the face of the bill. They are not there for two reasons. One is that outcomes change. The outcomes that you would set today would be very different from the outcomes that you would have set, say, five years ago. I suspect that they would also be very different from what they would be in five or 10 years' time as service provision changes—how we do things in these fields changes continually. Therefore, if you put the outcomes in the bill, you would need to introduce primary legislation every time you wanted to amend them. The national outcomes will be set out in secondary legislation.

Secondly, I am not going to take a unilateral decision on what those outcomes will be. All along, we have proceeded on a partnership basis with our friends in the local authorities and the third and independent sectors, and I think that this will work much better if we can get agreement on what the national outcomes should be and on how we measure success. We are more likely to achieve success if from day 1 everyone is signed up to what has been defined as success.

12:15

**John Wilson:** I am well aware that outcomes should not be set out in the bill. After all, you will know from your own constituency, cabinet secretary, that things can change dramatically with one report.

**Alex Neil:** They have improved enormously in the past two years.

**John Wilson:** I am glad that you have friends in local government throughout Scotland.

**Anne McTaggart:** Now that we are into the afternoon, I wish the cabinet secretary and minister good afternoon.

I have two quick questions. How will the quite different mechanisms for integrating services that are set out in each bill improve children's transition to adult services?

**Alex Neil:** I will let Aileen Campbell take the lead on this question, but I point out that the Public Bodies (Joint Working) (Scotland) Bill, which deals with adult health and social care, does not make a statutory requirement with regard to the integration of health and social care per se. However, coming back to the examples of the Highlands and West Lothian, I note that, in both cases, even with their different administrative arrangements it was agreed almost from day 1 that they needed to integrate their children's health and social care services.

I believe that there are two big differences between dealing with children and dealing with adults. First, there is the very crucial role that the education system plays with children and for which there is no equivalent for adults, particularly older people. Secondly, children by definition do not legally have the capacity to make decisions for themselves. However, adults do and I note that there are special arrangements for adults with incapacity. The fact that these two bills cross-reference each other means that we are singing from the same hymn sheet—and that is very important.

**Aileen Campbell:** Some of the consultation responses to the lead committee have acknowledged that the transition from children's to adult services can be challenging. The two bills allow for greater planning in both services; the Public Bodies (Joint Working) (Scotland) Bill will help to provide far more planning in adult services, while the Children and Young People (Scotland) Bill will require improvements in children's services to recognise the breadth of different people and services involved in a child's life. The fact that the two systems will improve planning will give us the ability to make the transition far smoother than might have been the case in the past. Indeed, that is the benefit of having these two approaches; greater emphasis on planning and improvement from children's point of view to reflect the breadth of services involved in a child's life will enable a better transition to adult services, which will also be improved through better planning.

**Anne McTaggart:** With regard to CPPs, how do these bills tie into the proposed community empowerment and renewal bill?

**Alex Neil:** Obviously, the community empowerment and renewal bill has a wider remit; it is not entirely about, but very much has an

emphasis on, physical assets, how the community obtains such assets and such matters. However, the umbrella for all of this is the Government's guiding principles and strategic objectives, which include not only community empowerment and renewal but public sector reform, to ensure that better-quality services are delivered more cost effectively and timeously; patient-centred healthcare and social care; and, indeed, person-centred education. Those underlying principles are not restricted to my bill, Aileen Campbell's bill or Derek Mackay's community empowerment bill; they are universal and part and parcel of our broad principled agenda for changing Scotland for the better.

**Aileen Campbell:** I echo the cabinet secretary's comments. When we seek to help families and children, we must ensure that we build from an asset-based approach—indeed, the chief medical officer is keen to promote approaches that build from a family's strengths—and I think that that dovetails very nicely with the community empowerment work that Derek Mackay will be taking forward.

Local authorities already publish children's services plans and West Lothian, for example, sets out very clearly how such plans integrate with the wider CPP family. The fact that structures are already in place to reflect community planning needs will also be reflected in how we move forward on this issue, with CPPs no doubt playing a crucial role in making the improvements that we expect to emerge from the Children and Young People (Scotland) Bill. I also imagine that our approach will reflect the single outcome agreements that local authorities will be finalising.

I hope that that covers your question.

**The Convener:** Thank you very much for that useful evidence.

Before I move the meeting into private session, I ask for everyone's co-operation in clearing the room quite quickly. We need to get through a lot of business before we meet the European commissioner at 1 o'clock.

12:21

*Meeting continued in private until 12:45.*



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